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CRIME PREVENTION STRATEGIES, IN PARTICULAR AS RELATED TO CRIMES IN URBAN AREAS AND JUVENILE AND VIOLENT CRIMINALITY, INCLUDING THE QUESTION OF VICTIMS: ASSESSMENT AND NEW PERSPECTIVES

Working paper prepared by the Secretariat

Summary

The Economic and Social Council, in its resolution 1994/19, section V, invited the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to examine ways and means of promoting cooperation in crime prevention between criminal justice agencies and, *inter alia*, other agencies, businesses, associations and the public in order to develop effective crime prevention activities at the local, national and international levels. In its resolution 1994/20, the Council welcomed the proposed guidelines for cooperation and technical assistance in the field of urban crime prevention, contained in the annex to that resolution, and decided to transmit the proposed guidelines to the Ninth Congress for consideration under item 6 of its provisional agenda. In the same resolution, the Council requested the Commission on Crime Prevention and Criminal Justice to finalize the proposed guidelines at its fourth session, in the light of the comments made by the Ninth Congress, and to consider practical ways of ensuring follow-up on the use and application of the proposed guidelines.

The present document provides an overview of the gravity of the problems related to urban crime and juvenile and violent criminality, as well as the prevention of victimization. It outlines possible strategies for their effective prevention that are aimed at promoting and enhancing international cooperation in that area.

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INTRODUCTION

1. In the statement of principles and programme of action of the United Nations crime prevention and criminal justice programme, approved by the General Assembly in its resolution 46/152, Member States recognized that the world was experiencing important changes resulting in a political climate conducive to, *inter alia*, more widespread enjoyment of basic human rights. They also expressed their deep concern about the extent and growth of crime, with its financial, economic and social consequences. In addition, Member States agreed that they must ensure tha. any increases in the capacity and capabilities of perpetrators of crime are matched by similar increases in the capacity and capabilities of law enforcement and criminal justice authorities. Furthermore, they recognized, in particular, the need to improve and strengthen the means of the crime prevention and control authorities in developing countries.

2. There is a new approach to United Nations activities that recognizes the complementarity of peace and development and the need to deal with problems that, if left unattended, are likely to undermine both. Human security is a priority; in this context, human security refers not to protection from external foes but to satisfaction of basic needs and safeguards against disturbances within civilian life that pose an increasing threat to people in many parts of the world.

3. The Commission on Crime Prevention and Criminal Justice is responding to the urgent challenge of preventing urban crime, violent criminality and youth crime. Although crime is hardly a new phenomenon, it has assumed new dimensions and sophistication. The fiftieth anniversary of the United Nations and other major events scheduled for 1995 - the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the World Summit for Social Development, to be held at Copenhagen on 11 and 12 March, and the Fourth World Conference on Women: Action for Equality, Development and Peace, to be held at Beijing from 4 to 15 September - will provide excellent opportunities to discuss, *inter alia*, crime prevention strategies, including the prevention of violent criminality, and victim protection.

4. At the five regional preparatory meetings for the Ninth Congress, held between January and March 1994, there was a broad degree of consensus on the seriousness and immediacy of the problems presented by crime. The preparatory meetings made comprehensive recommendations stressing the need for technical assistance and international cooperation in priority areas. The findings of the preparatory meetings, contained in the reports of those meetings (A/CONF.169/RPM.1/Rev.1 and Corr.1, A/CONF.169/RPM.2, A/CONF.169/RPM.3 and Corr.1, A/CONF.169/RPM.4 and A/CONF.169/RPM.5), have been taken into account in the present document.

5. The present working paper provides an overview of developments in research and policies since 1990 in the areas of urban crime prevention; prevention and control of violent crime; juvenile delinquency and youth crime; victims of crime; and promotion of international cooperation in crime prevention. As the vast amount of publications in those areas could not be reflected in the overview, an attempt has been made to present the essence of the issues concerned.

I. PREVENTION OF URBAN CRIME

6. Increased crime, linked with rapid and unplanned urbanization, poses serious difficulties to States, especially those suffering from poverty. The influx of rural migrants, drawn by the lure of cities and in search of largely non-existent work opportunities, together with overall demographic pressures, have created

an urban population explosion.* This migration may, among other factors, add to the growth of urban crime since the newcomers usually lack access to adequate housing and settle in the outskirts of towns, in shanty towns and squatters' settlements. As a consequence of the breakup of those individuals' social relations, traditional ties are loosened and alienation and discontent occur.

7. The rapid growth of cities poses not only great dangers but also opportunities for better crime prevention. The challenge is to make urban growth more viable and to ensure human security, both in its wider sense and more specifically in terms of crime prevention. It needs to be considered a distinct developmental investment rather than a recurrent overhead in national and urban planning and development.** Strategies are needed not only to improve the quality of urban life and reducing crime, but also to enhance the feeling of safety and to restore the confidence of citizens in the ability of government to protect them.

8. Planning for such development requires greater accountability, transparency and public participation in governance and crime control at the local as well as the national level. Measures that promote equity and social justice while reducing deprivation are important. Since differential rates of sectoral growth (e.g. in the economic sector but not in the social sector) may result in uneven and potentially criminogenic development, an integrated approach to development is necessary, one that will consider possible investments in those areas that, compared with others, are not as privileged. A more integrated and cost-effective approach to the criminal justice system and its subsystems is also required.

9. In recognition of the need for comprehensive yet focused action, a number of States have established national crime prevention councils or offices to provide leadership, guidance and support for local initiatives. Some developing countries have included crime prevention in their national plans, and some have created offices to deal specifically with crime prevention, collaborating with other national planning bodies in programme implementation.

A. Planning comprehensive action

10. Planning crime prevention requires the establishment of clear and, where possible, measurable, objectives at the national and local levels. Administrations may consider targeting crime problems causing the greatest concern, and choices must be made among options to maximize benefits at the least human and material cost.

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*According to the latest forecasts, the world's population will have more than quadrupled in the twentieth century, reaching nearly 7 billion by the year 2000 (and a projected 8.5 billion by 2025), a level that many experts regard as unsustainable. Of that total, 6.5 billion are likely to be living in poorer areas, with approximately two thirds concentrated in the urban slums of the developing world (*World Urbanization Prospects: the 1992 Revision; Estimates and Projections of Urban and Rural Populations and of Urban Agglomerations* (United Nations publication, Sales No. E.93.XIII.11)).

**The ever more pressing needs of the world's cities prompted by the United Nations Development Programme (UNDP) to convene, in cooperation with the United Nations Centre for Human Settlements (Habitat), an international colloquium of mayors in August 1994 as a preparatory activity for both the World Summit for Social Development and the United Nations Conference on Human Settlements (Habitat II), to be held in Turkey from 3 to 14 June 1996. The colloquium adopted a mayors' declaration on social development and sustainable human settlements, which called for a series of commitments, for the comprehensive development of cities; a strategy to empower the urban poor to help themselves improve their living conditions, including access to infrastructure, shelter, basic education, health, sanitation, security and information in poor neighbourhoods; the implementation of policies to help disadvantaged youth and children, including street children; recognition of ethnic, cultural, racial and religious diversity; and the encouragement of harmonious relations that reduce violence among diverse groups and promote socially integrated cities, ensuring equality under the law, eliminating social exclusion and marginalization, and promoting intercultural understanding and harmony among different groups. The mayors urged partnerships for action and mechanisms for intersectoral coordination and full participation, with a commitment to a common plan of action, and its periodic review and improvement, if necessary (see also the agenda of the meeting of Eurocities held at Antwerp from 18 to 19 September 1994 and its work programme for the period 1994-1995, which gave the issue top priority).

11. For a crime prevention plan to be truly representative and responsive to local urban crime problems and needs, the community should be involved at all stages and in all aspects: it has been noted that the greater the degree of community participation and solidarity in tackling social and crime problems, the higher the level of urban security.* There is a need for close cooperation between government and the community** and for building broad coalitions of all those concerned with crime problems.

1. An empirical base for decision-making

12. A more scientific basis for decision-making can substantially enhance efforts to improve the urban environment and its security. Specific initiatives can have a positive effect if they are part of a coherent strategy guided by a solid information base and ongoing evaluations. Different methods for developing such an information base have been devised. The trend is increasingly towards local area studies and problem identification, but they are likely to be more meaningful if carried out against the background of national crime and victimization studies,*** and of global trends, given the growing internationalization of crime. The United Nations world crime surveys and the international victimization and self-report surveys point to the larger context in which crime problems can be usefully analysed.

13. Although the urban scene is currently being studied at the international and other levels, crime-related information is still rarely included in such analyses.**** However, that situation may be changing. The large city statistics questionnaire of Habitat, developed under the city data programme, includes questions on reported crimes, the number of adults and juveniles convicted in criminal courts, and urban riots.

14. Other United Nations statistical exercises have included some relevant indicators. For example, the 1994 *Human Development Report* includes among the measures of human development a profile of "human distress", based on, *inter alia*, murders, reported rapes, pollution levels and injuries from road accidents. It also contains figures on urbanization and indicators of a "weakening social fabric", which include the number of incarcerations and various crimes.[1]

15. Guidelines for the development of social impact assessments that include urban security have also been suggested.[2] The relevant data should include the prevalence, forms and spatial distribution of various types of crime, as well as different aspects of urban functioning and the policies that govern it. Local victimization studies can complement national surveys, including the extent of feelings of security or insecurity.

2. Planning ahead

16. Crime prevention strategies should take into account not only current patterns and dimensions of crime, but also likely developments and trends in the short term and in the longer term.[2] Consideration should be

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*The Encuentro Latinoamericano de Alcaldes para la Seguridad Ciudadana has urged concerted action to relieve the serious urban crime problems in the region, including the creation of communal crime prevention councils and other interventions based on the principles of democracy, freedom, solidarity, tolerance, equity, participation and public mobilization.

**National crime prevention bodies have increasingly sought an active partnership with local authorities. In some countries (e.g. France, the Netherlands and the United Kingdom of Great Britain and Northern Ireland), national crime prevention councils are governmental; in others (e.g. Sweden) they are not; and in yet others (e.g. the United States of America), they are both. Such bodies promote crime prevention activities at various levels, often exercising a coordinating role.

***See for example, A. Alvazzi del Frate and K. Goryainov, *Latent Crime in Russia*, UNCJRI Issues and Reports Series No. 1 (Rome, 1993); and I. Gilinski and V. Afanasev, *Sotsiologija Deviantnogo Povedenija* (St. Petersburg, Sankt Petersburgskij filial Instituta Sotsiologii Rossijskoj Akademii Nauk, 1993).

****See for example, *Population Growth and Policies in Mega-Cities* series of the Department for Economic and Social Information and Policy Analysis of the Secretariat (formerly the Department of Economic and Social Development), or the urban management series of the United Nations Development Programme, where it could be included in the future, especially as a follow-up to the Mayors' World Colloquium.

given to preparing an inventory of all factors affecting or affected by crime and fear, for use both in responding to present problems and in forecasting prospective problems. As transnational crime continues to grow, interfacing with local crime problems, global crime trends should also be taken into account. The United Nations surveys of crime trends and criminal justice operations and of demographic projections offer an empirical base that could be used in forecasting.

17. The success of crime prevention planning at all levels will depend on the calibre and close cooperation of all those involved, including technicians and political leaders. The latter's legitimacy as elected representatives of the people makes them lead figures in the process of democratization. The link between security and democracy is a crucial one, for security without democracy is a hallmark of repression, which may lead to far greater insecurity.[3]

B. Strategies to reduce urban crime

18. Crime prevention strategies vary in nature, level, scope, time-frame and cost. Primary prevention - seeking to create socio-economic conditions less conducive to crime - has the longest horizon, and its effects are not easy to assess. Community initiatives vary in time and scale. While situational crime prevention, aimed at reducing opportunities for crime, may be readily instituted, it should be carefully evaluated because its effect is likely to displace rather than prevent crime. Efforts to prevent crime might include target-hardening, access control, and deflecting offenders by increasing the risks and by reducing rewards. Eliminating or restricting facilitators of crime, such as firearms, is a matter for urgent consideration and decisive action.

19. Crime prevention strategies can be designed to tackle a single aspect of crime rather than a spectrum of interrelated problems that should be dealt with in a more holistic matter. Since different offences may require quite distinct measures, efforts in some countries have focused on specific kinds of crime. Such an approach is particularly useful when it is part of a more comprehensive strategy designed to deal with a whole range of crime problems in an integrated way.[4]

1. Environmental approaches to crime and crime prevention

20. The differential incidence and patterns of urban crime have spurred studies[5] to identify the characteristics and impact of factors such as disadvantage. The geographical distribution of criminal offences, encompassing economic, social and ecological indicators of disadvantage, can often be identified. The geography of crime can be useful in planning policing and city restructuring.[6] Proximity and geography play a role in the "routine activities theory", which is concerned with people's movements within cities. Some recent studies have noted that increased mobility permits offenders to operate beyond their place of residence and that, therefore, the dynamics and range of factors at play should be taken into account.*

21. It has been pointed out that some modern architecture (e.g. high-rise public housing with many exits and no public space) have promoted some types of crime. Urban and architectural considerations are increasingly being taken into account in studies[7] and attempts to reduce particular kinds of crime, such as burglary. The concept of "crime prevention through environmental design" is central to situational crime prevention. This approach has been used when reviewing public housing developments, especially where a

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*Studies of "careers in crime" in urban areas in Poland, Sweden, the United Kingdom and the United States and in other countries have indicated the directories of possible action (see also Anna Kossowska, "Srodowiskowo-Przestrzenne Uwarunkowanie Przestepczosci (Wybrane Zagadnienia Współczesnej Ekologii Przestepczosci)", *Archiwum Kriminologii* (Warsaw), vol. XIX, 1993, pp. 7-16).

flourishing drug trade has developed.[8] It has also been used to enhance the security of businesses and other premises.

22. Relatively simple and inexpensive means of situational crime prevention, such as the provision of better lighting and iron gates, have been used in certain places with striking results.* New ways of creating defensible space, adapted to local circumstances, are being explored to reduce hiding places or other opportunities for offenders.

23. Situational crime prevention through target-hardening, especially in developed countries, is increasingly relying on state-of-the-art technology, creating a booming home security business that is often provided by private security companies. While civil rights advocates are concerned about the increased reliance on such private security services, the escalation of crime makes it understandable.[9]

2 Urban planning and renewal

24. The relationship between the physical deterioration of neighbourhoods, disorder and rising crime has been documented in recent research studies.[10] Physical improvements in dilapidated areas and community action can help stem the decline. Attempts to break the vicious cycle can employ a variety of techniques, including punitive measures for offences such as vandalism, and incentives to private home ownership or rentals (in the form of home equity insurance and subsidies, for example), which increase neighbourhood stability. Housing policy can also be used in other ways to reduce crime by stimulating the market for low-cost housing, thus making it profitable for landlords to maintain, upgrade and even build low-income units. Incentives may also be used to bring merchants into inner cities and other marginalized areas as part of upgrading efforts and a more equitable system for the distribution of goods.[11]

25. A battery of approaches is most likely to yield crime-reduction results. For example, performance zoning regulations, first used to establish environmental quality standards, can also be employed to increase safety.[12] The proper use of public spaces, parks, transportation and other common facilities can help to enhance personal and community security. In cities of developing countries, the large majority of whose inhabitants may be slum-dwellers, housing policies and urban redevelopment schemes should be part of broader urban and overall planning schemes. In countries at all stages of development, urban planners can fulfil a key function by coordinating various sectoral initiatives within a coherent framework in which crime prevention and quality of life considerations play a central role.[12]

26. Strategic urban planning should involve all sectors and disciplines and should reflect a sensitivity to psychosocial dynamics. Public support for self-help efforts by squatters and other marginalized groups can only be effective if it is provided as part of a wider strategy aimed at motivating such groups while providing tangible improvements to basic amenities and services. Such an approach is applicable both to developing countries, where the inhabitants may view the land as common property,[13] and to disadvantaged areas of developed countries. In some of the latter, neighbourhood-based non-profit corporations have rehabilitated housing, built new premises and brought in commerce and jobs. The creation of "empowerment zones" in some cities has fostered a positive vision that is self-fulfilling.[14] The development of community networks and support systems can greatly increase the viability of this undertaking, creating an upward rather than a downward spiral.

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*For example, since 35 iron gates and 26 alley barricades were installed in late 1992, violent crime in the Five Oaks district of Dayton, Ohio, United States, has fallen by 50 per cent and non-violent crime has fallen by 24 per cent. "Crime prevention through environmental design" was pioneered by Oscar Newman, who is to help restructure the physical design and improve security in 10 American cities, with federal funding (Mitchell Owens, "Saving neighborhoods, one gate at a time", *New York Times*, 25 August 1994, p. C1 and C6).

3. Community partnerships and neighbourhood justice

27. Successful urban development programmes often involve partnerships in both sponsorship and execution. Community partnerships have been found effective in different countries and jurisdictions. The building of coalitions to confront similar crime problems can significantly increase the impact of individual initiatives. The modern concepts and practices of law enforcement, community policing and problem-oriented policing are based on the idea of a partnership between the police and the local community. By bringing the police closer to the people, the problems and insights of the latter can be better appreciated and their cooperation enlisted.[15] The tasks of the police are also being rethought,[16] there is a need for them to play a more proactive role and for alternatives to formal criminal justice to be found.

28. Partnerships between law enforcement officers and citizens* have shown great promise. The key elements of success in such neighbourhood-based efforts include support from top officials; shared vision and leadership; an ability to deliver immediate tangible benefits; a commitment to empowering residents; qualified, committed staff; and simple organizational and budgetary arrangements.**

29. Where community traditions are strong, efforts are being made to capitalize on them in the service of crime prevention. Community awareness of the processes and problems in the administration of justice has also been heightened.[17] At the same time, law enforcement and criminal justice operations are becoming more responsive to the daily needs of the people. Community courts dealing with minor offences and the resolution of disputes are a fixture in some countries where the notion of customary justice persists. The wide use of volunteers in probation also reflects the community's involvement in the rehabilitative process.

30. As regards mobilizing public support, community partnerships have been found effective in different countries and jurisdictions.***

4. Broader socio-economic policies

31. Policies to reduce inequalities and achieve greater social justice are of critical importance to crime prevention.**** The problems of poverty, unemployment and social desintegration, which bear on crime and crime prevention, are interlinked, as are the elements of human security, which includes both personal and community security, and freedom from fear.

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*For example, in the United States, the Neighborhood Resource Team in Dade County, Florida; the Neighborhood Network Center at Lansing, Michigan, and Police Assisted Community Enforcement at Norfolk, Virginia.

**See, for example, Roberta C. Cronin, *Innovative Community Partnerships: Working Together for Change* (Washington, D.C., United States of America, Department of Justice, Office of Justice Programs, May 1994). A systemic approach has also been successfully used to involve the police in crime and drug abuse prevention (see G. Jackson, ed., "The systems approach to community crime prevention, Knoxville, TN", *Exemplary Programs in Criminal Justice: Innovations at the Local Level* (Washington, D.C., National League of Cities, 1994), p. 51).

***See for example, for Europe, "The development of urban policy in Europe", *Quartiers en Crise News*, No. 3, 1993; for France, Catherine Vourc'h and Michel Marcus, *Sécurité et Démocratie* (Paris, Forum Européen pour la sécurité urbane, 1993); for the United Kingdom, Crime and Concern, *Crime Prevention Partnerships: a Review of Progress* (London, Home Office, July 1994) and Crime and Concern, *A Practical Guide to Crime Prevention for Local Partnerships* (London, September 1993); and for the United States, National Crime Prevention Council, *Building Community Spirit throughout the Nation: Annual Report* (Washington, D.C., 1993), *Helping Communities Mobilize against Crime, Drugs and Other Problems* (Washington, D.C., 1992), National Crime Prevention Council, *Taking the Offensive to Prevent Crime: How Seven Cities Did It* (Washington, D.C., 1994) and *United States of America, 103rd Congress, 2nd session, House of Representatives, Report 103-711*, conference report to accompany H.R. 3355 (Washington, D.C., Government Printing Office, 21 August 1994).

****A proposal for a global safety net has been made in terms of essential consumption (perhaps a minimum of 1 United States dollar a day), or in terms of certain public goods, with adequate funding for poorer recipient countries, perhaps through an income tax of around 0.01 per cent on wealthier countries (United Nations Development Programme, *Human Development Report 1994* (New York, Oxford University Press, 1994), p. 79).

32. Poverty-reduction strategies should include the creation of opportunities for productive employment and income-generating activities. It may also be advisable to ensure access to social services, especially for recent migrants requiring jobs and support. Policies for security management are especially important in complex metropolitan environments. Appropriate education, training and public information can have a direct impact on crime reduction and can promote social cohesion, tolerance and respect for human rights.

5. Education, training and the mass media

33. Formal and informal education can promote good citizenship.* In addition, there is scope for crime prevention and criminal justice education, as called for by the General Assembly in its resolution 45/122. Prison education, including social education and employment preparation, also constitutes an important means of secondary prevention in that it enhances prisoners' prospects for social reintegration.**

34. Suitable training and sensitization of crime prevention and criminal justice personnel are probably a key to programme success. The training of trainers in areas such as mediation, social reintegration and community treatment is crucial. Non-institutional sanctions such as community service, creative restitution and work-release can reinforce offenders' local links and their reintegration into society, thereby helping to prevent recidivism.[18]

35. Although the media may accentuate the fear of crime through sensationalist coverage and may contribute to a climate of fear, it has great potential for publicizing successes, helping to instil confidence in crime control methods, promoting promising innovations, and encouraging public cooperation. More responsive and responsible reporting should be encouraged.

6. Multicultural cities: a growing challenge

36. One of the consequences of increased migration has been the trend towards multi-ethnic and multicultural cities. Many of the world's great metropolises that have experienced a large influx of newcomers have become increasingly heterogeneous. Backlash by the existing community against foreigners, manifested in xenophobic hate crimes,[19] has created serious preoccupations about infringements of basic human rights. The special measures taken against such crimes should help to prevent them, but legal steps alone will not dispel false stereotypes and prejudice. There is also a need to change attitudes - a task in which law enforcement and other professionals can play a major role.[20]

37. Countering such crimes effectively requires action at various levels, including appropriate legislation, law enforcement, prosecution and sanctions. But a broader strategy is also needed to foster a more empathetic civil society that not only tolerates diversity but considers it enriching. Educational and media campaigns for increased tolerance can play a crucial role, as can community efforts to foster intercultural communication.[21]

38. Immigrants and especially youth whose parents are immigrants, often feel suspended between two worlds and might be more vocal than adults in their rebellion against perceived injustices and in their demands for equal opportunities. The frequent concentration of immigrant families in marginal urban zones, where

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*A people's law school has been established at Vancouver, Canada, and a "citizenship school" has been established at Lille, France.

**The Crime Prevention and Criminal Justice Branch, in cooperation with the UNESCO Institute for Education at Hamburg, Germany, has prepared a *Manual on Basic Education in Prisons*, which provides a worldwide overview of prison education programmes (ST/CSDHA/25, forthcoming).

poverty is more acute and services less available, compounds this problem. For harmonious coexistence, sensitizing established residents to the customs and expectations of the newcomers may be as important as sensitizing the newcomers to the customs and expectations of the established residents. Attempts at greater equity should help to ameliorate the situation and to defuse potential violence, especially if there are channels for the expression of grievances. The involvement of all urban residents in the active exercise of citizenship is most important.

C. Future action

39. The proposed guidelines for cooperation and technical assistance in the field of urban crime prevention, contained in the annex to Economic and Social Council resolution 1994/20, are to be finalized by the Commission on Crime Prevention and Criminal Justice at its fourth session in the light of the comments to be made by the Ninth Congress, for subsequent publication in the most appropriate form. The proposed guidelines contain recommendations on the design and implementation of technical cooperation and assistance activities, using a local approach to crime problems and an integrated crime prevention action plan that involves both primary and secondary prevention. The emphasis on training and information for all professionals involved in crime prevention is in line with the priority assigned to this matter by the Commission, which was requested by the Council, in its resolution 1994/20, to consider practical ways of ensuring follow-up on the use and application of the proposed guidelines. In addition, in the proposed guidelines, competent authorities at all levels are recommended to compare experiences and to organize exchanges of know-how and to provide a means of evaluating on a regular basis the effectiveness of the strategies implemented and their possible revision.

40. The recommendations contained in the proposed guidelines are addressed to authorities at all levels. By calling on UNDP and other relevant United Nations entities and international financial institutions to include urban crime prevention projects in their technical assistance programmes, the Economic and Social Council has set the stage for significant initiatives in this field. The situation in most cities in the world and their gloomy prospects make action of this kind imperative. If such action is not taken now, there is every likelihood that urban decline and instability will deteriorate further as violence and crime escalate.

41. At the international level, the urban management programme of UNDP, with support from the World Bank, might include crime prevention for greater urban safety in its repertory of projects. That would be consistent with the emphasis placed by UNDP on personal and community security being indispensable conditions for sustainable growth and human development. An array of technical assistance activities might be envisaged, including interregional seminars and courses for high-level and middle-level participants, bringing together urban planners and crime prevention specialists. Research to guide further action might also be undertaken on such topics as security in the megacities. Similar initiatives could be taken at the regional level, in cooperation with the regional institutes for the prevention of crime and the treatment of offenders, affiliated with the United Nations. A one-day workshop on urban policy and crime prevention, to be held within the framework of the Ninth Congress, will provide a unique forum to enhance cooperation in urban crime prevention at various levels.

II. PREVENTION AND CONTROL OF VIOLENCE

42. As the world nears the twenty-first century, violence is a fearful fact of life. It takes many forms and has many different reasons, but its effects are devastating. Urban violence, most frequently involving the use of firearms or other lethal weapons, has made many cities dangerous places to live in or visit; and the threat that it poses compounds the pervasive feelings of insecurity. Collective violence, often linked to ethnic, racial and religious strife, has taken a tremendous toll: millions of victims of tribal conflict; ethnic cleansing; rape;

terrorism; hate crime; street crime; and attacks on refugees, migrants, minorities or other vulnerable population groups.

43. The United Nations, through its increased involvement in peace-keeping and peace-building operations, is able to serve as an impartial arbiter, to help to curtail violence and to provide some protection and assistance to the victims. The relatively modest results of those operations could be attributed to the enormous gap between the worldwide needs and the capacity to respond, not to mention to prevent. The complexities and many interfaces of the various phenomena make adequate action still more difficult, though it properly falls under the goal of preventive diplomacy, which has become even more relevant in the light of the new, wider concept of "security".

44. The apparent escalation of violence, public insecurity and official concern has led to the establishment of special commissions in several countries to deal with violence and to help to develop more effective strategies of prevention and control.*

45. Many United Nations entities have been concerned with violence. A number of those United Nations entities, such as the Crime Prevention and Criminal Justice Branch of the Secretariat, the Division for the Advancement of Women of the Secretariat, the secretariat of the International Year of the Family, are working to curtail violence against women in the home and in society. *Strategies for Confronting Domestic Violence: A Resource Manual*[22] was published by the United Nations in 1993. The Canadian Department of Justice supervised the production of the *Manual* with the assistance of the European Institute for Crime Prevention and Control, affiliated with the United Nations,** and in cooperation with the Crime Prevention and Criminal Justice Branch. A draft of the *Manual* was reviewed by a panel of experts at the Seventh International Symposium on Victimology, held at Rio de Janeiro in August 1991, and at the Expert Group Meeting on Domestic Violence, held at Vancouver, Canada, from 22 to 25 March 1992. The *Manual* focuses on the violence committed by husbands and male partners against their wives and female partners. It identifies many different strategies that Governments, police, social service agencies, health workers, community organizations and women's groups around the world are using to confront the violence that women suffer at home. The *Manual* is currently available in English only. The Canadian Government, however, has generously provided a French translation of the *Manual*, which will soon be made available.

46. The United Nations International Drug Control Programme is concerned with violence associated with drug trafficking. The Office of the United Nations High Commissioner for Refugees seeks to curtail and prevent violence against refugees and internally displaced persons. The United Nations Children's Fund (UNICEF) is concerned with children in difficult circumstances, including children in situations of armed conflict and street children, who are often the victims of violence and exploitation. The United Nations Institute for Training and Research, which some years ago considered the question of civil disorders, is currently conducting training courses on conflict resolution. The special rapporteurs of the Commission on Human Rights deal primarily with forms of state violence (e.g. extralegal executions, torture and

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*Statements and recommendations on the subject have been issued by the National Committee on Violence in Australia (see Australia, National Committee on Violence, *Violence: Directions for Australia* (Canberra, 1990)), the German Commission on Violence, and the National Panel on Understanding and Preventing Violence in the United States (see Panel on the Understanding and Control of Violent Behaviour, National Research Council, Committee on Law and Justice and Commission on Behavioural and Social Science and Education, *Understanding and Preventing Violence*, Albert J. Reiss and Jeffrey Roth, eds. (Washington, D.C., National Academy Press, 1993), vol. 1: Summary of findings; vol. 2: Behavioral influences; vol. 3: Social influences; vol. 4: Consequences and control). Special task forces on the subject have been set up by professional organizations such as the American Bar Association (see, for example, Barry Weisberg, Reporter, Special Committee on Violent Crime, Criminal Justice Section, "Primer: reducing and preventing violent crime (discussion draft)" (Washington, D.C., American Bar Association, 8 July 1994)) and the American Psychological Association (American Psychological Association, *Violence and Youth* (Washington, D.C., 1993)).

**Formerly called the Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI).

disappearances), allegations of violence and other abuses in individual countries, as well as other kinds of violence. A special issue of the *International Review of Criminal Policy*[23] was devoted to violence. The United Nations Educational, Scientific and Cultural Organization (UNESCO), which formulated the Seville statement on violence, disclaiming its biological origin, has been concerned with violence and aggression for over two decades.

A. Gauging the extent of violence

47. The measurement of violence depends on the definition used, its seriousness, its consequences and factors such as the cultural context, official response and statistical capability of the jurisdiction. In some countries, there may be several sources of relevant information.* Murders are likely to be counted accurately except where mass violence occurs. Counts of non-fatal violent crimes are usually incomplete and some violent acts may not be recorded, such as those committed by friends and intimates. The act may not be recognized as a serious crime, the victim may be reluctant to report it, and the definition may change over time or vary depending on the community and discretion. One example of changed attitudes towards crime involves incidents of domestic violence, which are being more widely reported and acted upon in some countries. If that trend were to take root in more countries throughout the world, public attitudes would change and there would be increased concern about spouse abuse.

B. Causes and consequences of violence

48. The causes of violent crime are numerous and interwoven. While the reasons for the commission of non-violent offences by individuals might be attributed to such motives as poverty, lack of hope or opportunity, alcohol or drug abuse, and chaotic or unsatisfactory lifestyles, violent offences by individuals or groups are likely to be the result of certain emotions experienced in specific circumstances. Unravelling those chronic and acute factors** is a complex task.***

49. Information on the perpetrators and victims of violent crime in most countries indicates that such persons share similar demographic profiles; they are usually young male inhabitants of marginal urban districts, although females are currently the largest growing group of offenders. Minorities seem to be disproportionately represented in the arrest figures of some countries, largely because they are disproportionately represented in the most disadvantaged sectors of society. The perpetrator of violence is often known to the victim, though "stranger-to-stranger" violence is increasingly occurring.

50. The consequences of violent crime for the victims, their families and societies can be devastating. The material price alone is extremely high, but the non-material effects of the trauma on victims and their families are even greater. The prevalence of violence and media coverage and depiction of violent fictional or true events are harmful not only because of their content, but also because they may come to be viewed as the norm and can thus undermine the foundations of social coexistence.

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*In the United States (and in other developed countries), for instance, three measurement systems are the primary sources of information in counting crimes and their victims: the national crime survey, the uniform crime reports on crimes detected by or reported to the police, and national health statistics. The national crime survey also serves as the basis for figures on victimization overall and in certain categories.

**For example, environmental hazards can be a causal factor: it has been discovered, for instance, that children in disadvantaged neighbourhoods are exposed to higher amounts of lead in their homes than are other children, a fact that has been linked to a higher incidence of physical and neurological impairment and "the increased likelihood of antisocial behaviour later in life". (United Nations Children's Fund, *The State of the World's Children 1994* (New York, Oxford University Press, 1994)).

***Attempts to systematize these factors have produced classification schemes of predisposing and precipitating risk factors, according to their proximity to the violent event (see Albert J. Reiss and Jeffrey Roth, eds., *Understanding and Preventing Violence* (Washington, D.C., National Academy Press, 1993), vol. 1, p. 20).

C. Specific forms of violence

1. Civil disorders and ethnic violence

51. In recent years, there has been an upsurge in ethnic, religious and racial conflicts. And there have been tragic examples of the extremes that ethnic strife can take. Long dormant or submerged by authoritarian rule, ethnic violence may be exploited by politicians for their personal or institutional ends, or may erupt as result of worsening economic conditions or other pressure. This may occur even if different ethnic or religious groups have coexisted peacefully in the past. When people do not feel free to express their ethnicity, to speak their language and to practice and transmit their cultural traditions, they are less likely to develop a sense of civic identity and, if seriously threatened, they may offer violent resistance.

52. Civil disorders likely to erupt in violence have complex dynamics. Urban riots, group violence and social unrest have increased in the last three decades in some countries. Repressive tactics may fan violent protest rather than quash it. Civil protest is usually a reaction to perceived injustice, including a lack of accountability of the agents of control. Transparency in official actions and accountability of public officials are key elements in preventing collective protest.[24] Non-lethal substitutes for crowd control can be a helpful adjunct of integrated action and longer-term strategies. Techniques for conflict management and non-violent conflict resolution that avoid the use of force to the maximum extent possible should be part of law enforcement training, in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.[25]

2. Violence against women and children, including domestic violence

53. Violence against women and children has only recently come to receive considerable public attention. The public outcry against child abuse has led to remedial measures in a number of countries. Advocates of women's rights have drawn attention to the plight of female victims, and a largely self-help movement that has emerged has helped to establish facilities, such as shelters and hotlines, that have since become part of official policy in many countries, though non-governmental initiatives still play an important role, attesting to the persistent need for such help.*

54. Violence against women and children has taken centre stage because of recent tragic events. The tragic use of rape as a systematic instrument of war, as well as of personal or group attacks, has been documented, and the shooting of street children by vigilantes in some countries has resulted in international protest.[26] Because of the covert nature of such abuse, and the powerlessness of its victims, the real extent of violence against women and children is unknown, but its enormous scale has been surmised.

55. In its resolution 1993/26, on violence against women in all its forms, the Economic and Social Council, expressing deep concern about the continuing and endemic violence against women, urged Governments, the specialized agencies of the United Nations and the non-governmental organizations concerned:

(a) To take all possible steps to prevent such violence, to intensify their efforts to use criminal law in order to prohibit violent acts against women;

(b) To promote police and penal systems that combine the protection of society with the prosecution and appropriate punishment of perpetrators;

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*A recent directory lists 379 organizations working against gender violence in Latin America alone (Lori L. Heise, "Violence against women", *World Health*, special issue on violence: a matter of health, vol. 46, No.1 (January-February 1993), p. 21).

(c) To offer full assistance, access to the legal system and, where necessary, counselling, medical, financial and other support to victims;

(d) To include the issue of violence against women in all its forms under the appropriate item of the provisional agenda of the Ninth Congress and in the preparations for and observance of the International Year of the Family, in 1994, under the question of crime prevention and criminal justice. Moreover, in the same resolution, the Council requested the Commission on Crime Prevention and Criminal Justice to include the issue in the provisional agenda for its third session.

56. Subsequently, in its resolution 3/1, on violence against women and children, the Commission recalled that the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993, stated that effective measures were required against female infanticide, harmful child labour, the sale of children and their organs, child prostitution, child pornography and other forms of sexual abuse.[27] The Commission also recalled that article 19 of the Convention on the Rights of the Child, adopted by the General Assembly in its resolution 44/25, required States parties to that Convention to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, including sexual abuse. In addition, in the same resolution, the Commission called for the elimination of violence against women and children in the family, in the general community and where perpetrated or condoned by the State, and emphasized the duty of Governments to refrain from engaging in violence against women and children and to exercise due diligence to prevent, investigate and, in accordance with national legislation, to punish acts of violence against women and children and to provide access to just and effective remedies and specialized assistance to victims.

57. The General Assembly, in its resolution 40/36, on domestic violence, invited Member States concerned to take specific action urgently in order to prevent domestic violence and to render the appropriate assistance to the victims thereof. Subsequently, the Economic and Social Council, in its resolution 1989/67, requested the Secretary-General to undertake further comparative research, studies and reports on developments in the phenomenon of domestic violence from the perspective of criminal justice, criminal law and procedure, and to prepare a report on domestic violence for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

58. The pervasiveness of domestic violence and its pernicious effects were noted in the comprehensive report on the subject prepared by the Secretary-General for the Eighth Congress (A/CONF.144/17) and in the special study conducted as part of the preparations for the International Year of the Family.[28] Those reports, as well as the United Nations publication *Strategies to Confront Domestic Violence: A Resource Manual*, referred to in paragraph 45 above, contained proposals on comprehensive strategies for dealing with various aspects of the problem, based on expert recommendations. Where the problem of domestic violence has come to the forefront of public attention because of high-profile cases, gender-bias task forces etc., legislative reform has been accelerated, based on the growing role of the State in what was previously deemed a largely private matter. Criminal courts, rather than family courts, have emerged as the main judicial feature, regarded as better suited to dispense punishment and to ensure due process of law. Difficulties persist, however, since criminal courts are not necessarily well suited to provide guidance and supportive intervention for civil, family and juvenile courts. Since domestic violence is usually a recurring phenomenon, the victim is often reluctant and uncooperative, and sentencing is difficult because of a lack of treatment programmes for the offender and concerns about the victim's safety.

59. Comparative studies have shown that some forms of gender violence are universal, occurring in all regions, classes and cultures: homicides, battering, sexual assault, rape and incest. Other forms of violence are widespread but differ in their cultural interpretation. Gender violence, particularly domestic violence and rape, have been shown to be a serious problem in almost all the countries in which surveys on the subject have been conducted.[29] In the case of rape, problems concerning definition and discrepancy in the

perception of what constitutes rape may complicate assessments of its incidence and the introduction of preventive strategies.

60. Some forms of gender violence may be viewed differently and may be legitimized by cultural or religious factors, especially where rape is equated with extramarital sex and where female genitals are mutilated. Trafficking in women and children, especially girls, for sale on the black market as forced labourers and for sexual and reproductive services is prevalent in some regions. Women and girl refugees, who constitute three fourths of the nearly 20 million refugees in the world, are subject to sexual violence and abduction during their flight and in camps.[30] In this connection, it should be recalled that the Commission on Crime Prevention and Criminal Justice, in its resolution 3/2, on international traffic in minors, decided that the matter of international traffic in minors should be given priority consideration by the Ninth Congress, under items 2 and 4 of its provisional agenda.

61. National strategies have focused primarily on legal measures and services. Legal reforms, however, such as those aimed at making the commission of domestic violence a criminal offence, have been handicapped by lack of recognition of the seriousness of the issue on the part of some of those expected to deal with it, including the police, prosecutors and judges. Judges, magistrates and law enforcement officers need to be better prepared for the application of new laws or proper interpretation and enforcement of existing laws. In the past, some laws have stressed punishment of the perpetrators without giving proper attention to prevention and treatment. Some have also re-victimized women reluctant to press charges. Other laws have stressed victim protection but have failed to provide the necessary support services, such as safe shelter and counselling. But even attempts to provide support services have often been impeded by lack of funds and training. Thus, structural changes leading to more egalitarian societies, such as the appointment of more women to positions of responsibility, are of vital importance in this context.

D. Strategies for the prevention of violent crime

62. It is important for prevention purposes to view a violent event as the outcome of a long chain of preceding events, which might have been broken at any one of several links, rather than as the product of a set of factors that can be ranked in order of importance. The point is not that any single strategy will eliminate all violence, but that violence levels can be reduced by a variety of individual decisions and non-intrusive public policies.[31] Consequently, different means may have to be used to deal with different kinds of violence, and an operational approach is necessary as more knowledge is acquired regarding the feasibility of various approaches. Nevertheless, some implications can be drawn for possible strategies that would be simultaneously comprehensive and differentiated.

63. Progress in the prevention of violence is most likely when the chances of early success can be maximized by focusing on categories of problems and interventions for which the risk factors are most firmly established, those for which the most positive research results have been obtained and those for which tactics are most readily marshalled. While valuable information has been obtained, much more is needed to establish a comprehensive and reliable database for preventive strategies in the future, to explore aspects neglected by research and to gauge the vectors operating in communities, families and individuals that reinforce the potential for violence.

64. Of the risk factors for violent behaviour, the predisposing ones are probably the most difficult to change or offset as they are often related to broader structural problems such as the concentration of poverty, lack of opportunities, the culture of violence, and family disorganization. There is a need for both comprehensive and specific crime prevention approaches and for interventions at different points; the range of options available includes social and community-level interventions, parental education, child development and behavioural approaches.

65. Factors that have increased the gravity of recent violent crimes include easy access to facilitators of violence, especially firearms. The control of firearms and other weapons is essential. Strict laws on the licensing and possession of guns, with interdiction for minors, already exist and are rigorously implemented in most countries. If more drastic measures cannot be taken to ban such weapons, then their purchase and possession should at least be restricted, the negligent storage of such weapons should be deterred and strict national requirements for the licensing and registration of such weapons should be adopted. Programmes to buy back arms or to exchange guns for toys have also been instituted with some success. The use of guns as an aggravating factor in offences and other measures to deter the use of violence are a necessary part of any strategy.

66. In the past, relatively little was done at the international level in the field of firearms control. Recently, however, the Commission on Narcotic Drugs, in its resolution 9 (XXXVI), expressed its awareness of the link between illicit trafficking in arms and explosives and illicit drug trafficking and recommended that States that had not already done so should consider establishing or improving appropriate controls, especially export controls, on transfers of explosives, munitions and armaments. Following that initiative, the Asia and Pacific Regional Preparatory Meeting for the Ninth Congress (A/CONF.169/RPM.1/Rev.1 and Corr.1, resolution, section V) and the Western Asia Regional Preparatory Meeting for the Ninth Congress (A/CONF.169/RPM.5, resolution, section I.D) called on Member States to promote the adequate control of firearms by means of both regulations and law enforcement. The Ninth Congress may wish to designate effective measures for the control of firearms, with a view to providing policy guidelines on the control of their use in situations involving violent crimes and the prevention of illegal transnational trade in firearms.

67. The linkage between violence and the abuse of alcohol and other substances also underlines the need for adequate programmes, preferably within the community, but also in an institutional setting. Some countries regard alcoholism and drug addiction as primarily medical problems, but even where the attendant violence has brought such a case under the jurisdiction of the criminal justice system, therapeutic principles can be applied in any structured environment, including prisons.

68. Recognizing the gravity of the problem of domestic violence, the international community and individual States and organizations have recently sought to take more energetic measures against it, largely as a result of campaigning by women's groups and children's advocates. The adoption of new laws, coupled with stringent law enforcement, is probably a first step, not only as a legal disposition but also as a normative standard and a statement that certain types of behaviour will not be tolerated. A number of countries have adopted provisions designed to curtail gender violence. Assault is already forbidden under criminal law, but as a crime committed by men against women it has sometimes been interpreted differently than as a crime committed by men against men, partly because of some social and cultural factors that have left the issue beyond the scope of the law. The international requirements laid down in recent General Assembly and Economic and Social Council resolutions should help to change such attitudes and to create a climate for better understanding. The United Nations publication *Strategies for Confronting Domestic Violence: A Resource Manual*,[22] referred to in paragraph 45 above, should give persons with responsibility for, or interest in, ending the violence that women experience in their own homes ideas on actions that they can take and strategies that they can promote to solve the problem. Action by United Nations bodies could also create another level of redress and could further the accountability of States.

69. Technical assistance and other collaborative efforts could also help in this endeavour. Both national and state or provincial plans for the reduction of violent crime have been developed in some countries using a comprehensive approach and a continuum of interventions to deal with violence. An institutional framework and material support for violence reduction could also help by facilitating concerted action. In some countries

(e.g. the United States), special structures and funding sources have been established for this purpose,* and they might be contemplated in other countries where violence persists. Concrete programme ideas and examples can be a major help. Building solidarity is a key to the success of strategies for the prevention of violence. Such strategies can also stem collective violence where there is a shared civic identity, a common stake in the future and a responsiveness to diverse social needs. For example, some countries have made major strides on their own in setting up police stations run by women for women.

70. There is significant potential in the expressed readiness of certain donor countries to give appropriate assistance to the police, courts and other relevant institutions in developing countries and in countries in transition. International leadership should foster the achievement of tangible results in that area, to be solidified by the results of the Ninth Congress, as well as relevant initiatives taken in the context of the World Summit for Social Development and the Fourth World Conference on Women.

III. JUVENILE DELINQUENCY AND YOUTH CRIME

71. At the regional preparatory meetings for the Ninth Congress, States from every region reported sharp increases in juvenile delinquency and youth crime. In countries in transition, police-reported juvenile crime has doubled but clear-up rates have remained stable.[32] In most cases the average age of the offenders is also dropping. Those facts, coupled with the estimation that by the year 2000 more than 50 per cent of the world population will be under the age of 15,[33] highlight the seriousness of the problems of juvenile delinquency and youth crime.

72. Crimes committed by juveniles run the gamut from petty larceny to murder. In developing countries, economic factors may motivate youth to commit crime. The offences seem to be committed primarily out of a need for the basic necessities of life.[34] Deteriorating economic conditions also place additional strain on family units and result in increased numbers of broken homes, dysfunctional families and homeless children. Studies have shown that violence and delinquency are related to relative deprivation,[35] and countries with greater income disparities seem to be experiencing a higher level of violence.

73. A developed national economy does not necessarily reduce the risks to the young, or the rate or severity of juvenile delinquency. There are many young serious offenders in some of the most economically developed countries, though they generally come from disadvantaged areas. Most acts of juvenile delinquency involve petty crime; however, in some countries, particularly countries in transition, it has been reported that violent crime is increasing.**

74. At the same time, many children are victims as well as offenders. They grow up in an adverse climate of violence and pervasive insecurity in inner-city ghettos and other marginalized areas that may be as dangerous as war zones.[36] Rather than being safe havens, the home and school are often part of the battleground, where the young are at risk of violence, negative peer pressure and gang intimidation.***

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*As suggested in *Violence in Urban America: Mobilizing a Response*, summary of a conference organized by the National Research Council, the Committee on Law and Justice, the Commission on Behavioural and Social Sciences and Education, and the John F. Kennedy School of Government, Harvard University (Washington, D.C., National Academy Press, 1994).

**In the former Union of Soviet Socialist Republics, juvenile crime, which had been at a relatively low level, increased by 80 per cent over a 10-year period; as a result, juveniles accounted for 20 per cent of all violent crimes (J. Finckenauer and L. Kelly, "Juvenile delinquency in youth subcultures in the former Soviet Union", *International Journal of Comparative and Applied Criminal Justice*, vol. 16, No. 2 (1992)).

***Recent reports from two African countries, for instance, noted that rape (including rape leading to death) was tolerated in some boarding schools, and systematic sexual harassment and abuse were considered by male teachers and civil servants to be quite natural (see: Jan Pronk, *Calling for Change: International Strategies to End Violence against Women, Report of a Seminar, The*

A. Children particularly at risk

1. Working children

75. Ruthless child labour practices can be considered modern forms of slavery. The Commission on Human Rights, in its resolution 1993/79, adopted the Programme of Action for the Elimination of the Exploitation of Child Labour, which advocates a number of measures to be taken at the national and local levels. Those measures include information campaigns to raise public awareness of the problem, educational and vocational training to prevent the exploitation of child labour, social action to help families and their children, development aid, the stipulation and application of labour standards, the adoption by States of appropriate policies and programmes, and support from international agencies. In particular, young children are often forced to work under hazardous conditions in exploitative jobs in, for example, sweatshops and brothels.[37]

2. Street children

76. Children without families, or whose family links are tenuous, are particularly at risk, especially when they spend most of their time in the streets. Aside from having to fight daily for their survival, such children are victims of abuse, exploitation, trafficking, disappearances and killings.* The number of street children worldwide is staggering: estimates range from 100 million to 150 million. And the number seems to be increasing,[38] largely as a result of civil strife, rapid urbanization, economic recession and dwindling social support.

77. Most street children survive by working in the informal sector as street vendors, petty hawkers, shoeshine boys, scavengers of raw materials, thieves and street prostitutes. The human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) are spreading among street children, especially among those drawn into prostitution. Involvement in illicit drugs ranges from glue-sniffing to being coopted into the illicit drug trade, and the coercion of children into organized criminal activities is particularly common.

78. Attempts to help street children have often focused on their immediate needs, including the provision of institutional facilities.** While such attempts cannot tackle the larger problems of inequity and deprivation, they can serve as focal points for efforts to reclaim such children and to integrate them into the mainstream of society.

3. The instrumental use of children

79. On the recommendation of the Eighth Congress, the General Assembly adopted resolution 45/115, on the instrumental use of children in criminal activities. In that resolution, the General Assembly expressed concern about children being led by adults into a criminal lifestyle. Such concern also led to the convening of an expert group meeting on the subject at Rome from 8 to 10 May 1992.[39] There are a number of factors conducive to the instrumental use of children that need to be dealt with if it is to be curtailed. Among them are lack of specific legislation for the penalization of adults who exploit children and, where such legislation

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Hague, 6-9 June 1993 (May 1994), pp. 13-14).

*For example, in Brazil such acts have been perpetrated by vigilantes; and in Peru, where the crime of terrorism has been extended to adolescents, disappearances have posed a problem (see the report on the sale of children, child prostitution and child pornography submitted by Vitit Munterborn, Special Rapporteur, in accordance with Commission on Human Rights resolution 1993/82 (E/CN.4/1994/84, p. 22)).

**At São Paulo, for instance, communities have been assisted by the Pastorate for Children to mobilize protective services for their children. The UNICEF urban basic services programme is seeking to include the reinforcement of family and community solidarity and protection.

exists, lack of its proper enforcement. Existing legislation on child exploitation should therefore be reviewed and appropriate reforms should be carried out, bearing in mind United Nations instruments for juvenile justice and for the prevention of juvenile delinquency[40] and human rights safeguards.

80. Comprehensive action should be taken at the national and international levels to improve the prevention and control of the instrumental use of children. Technical cooperation, advisory services, the training of personnel and pilot projects should be initiated to help reduce the problem. The computerization of data and the exchange of information on offending syndicates and other forms of mutual cooperation should also be pursued to that end.

B. Mitigating predisposing risk factors

81. Strategies to safeguard children at risk should be comprehensive. Piecemeal attempts to deal with delinquency problems are unlikely to succeed because they often do not take into account the urban environment.

1. Strengthening families

82. Measures aimed at strengthening families should discourage pregnancies among teenagers and should improve access to critical support services, such as child-care and home visitor programmes. Such measures should focus on mitigating the situation of dysfunctional families or families characterized by erratic, absent or excessive discipline, a high probability of mistreatment and a lack of positive role models. Early intervention can help to put an end to the cycle whereby child abuse, and the delinquency that is associated with such abuse, is passed on from generation to generation. Various measures to strengthen the family were suggested in 1994, the International Year of the Family. The United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) (General Assembly resolution 45/112, annex) indicate the directions to be pursued; they need to be more widely known and practical action models need to be provided.

2. Strengthening communities

83. Communities suffering from violence are breeding grounds for delinquency. They have to be revitalized in order to provide hope in the form of concrete opportunities for youth so that such persons do not adopt criminal lifestyles.

84. Young people should be closely involved in efforts to reclaim run-down neighbourhoods. In some places, youth leaders and social facilitators are being trained with that in mind, as part of multifaceted local revitalization schemes. Structured cultural and recreational activities may help to bind young people and to provide positive outlets for their energy. Community projects could be pursued that would involve the participation of youth as both helpers and the persons being helped.

3. The school and transition to work

85. Schools have a crucial and difficult mission: to impart knowledge and to develop know-how and to compensate for the failings of parents and society by providing a suitable environment for human growth. Especially during times of pervasive social change, conflicting values and lack of stable norms, schools need to impart moral and civic education. Moral education, which is already a part of school programmes in some countries, can help young people to develop self-control and to learn to resolve conflicts in a non-violent manner rather than through aggression. There are initiatives in various countries to train teachers to prevent misbehaviour among pupils through social contracts, to manage misbehaviour when it does occur and to better deal with chronically disruptive pupils.

86. Some forms of early intervention seek to maximize individual potential, to compensate for initial disadvantage and to provide developmental support.* In many places, schools are increasingly becoming multi-purpose organizations, providing diagnostic and health services, counselling, sports and recreational facilities, training in basic skills, and vocational guidance. School-based community centres with comprehensive programming for youth and their families provide safe havens that are open all day throughout the year, offering a range of educational, cultural and recreational activities, as well as access to social services. Such centres could be concentrated in communities identified as having the greatest number of young people at risk.

87. One of the key problems for many young people is bridging the gap between school and work. Adverse economic conditions have resulted in increased numbers of unemployed youth whose aspirations cannot be fulfilled by legitimate means. A more integral approach to education and human resource development might reduce the structural imbalances that frustrate young people attempting to achieve their goals and that eventually lead them to attempt to reach those goals even by breaking the law.

4. The role of the media

88. There is a long-standing debate on the relationship of violence in the media, especially television violence, to heightened aggressive behaviour in children and youth.[41] The issue is not an easy one, as the discussion of it often leads to the idea of censorship and restriction of freedom of expression.

89. The policy debate on the need for media regulation continues. In some countries, for example, there are government agencies that monitor television programmes and motion-picture films and do not permit excess violence to be shown. Even in countries where there is no such regulation, major television networks have agreed on a common set of standards regarding the violent content of their programmes.[42] The adopted voluntary standards, however, have been seemingly unsuccessful in reducing television violence.

90. A broader effort to enlist the cooperation of all those involved in the media, including journalists and programmers, is needed to reduce sensationalism, which affects not only children but the public as a whole by raising levels of fear and inuring people to human suffering. The media, through responsible reporting and special educational campaigns, has a crucial role to play in promoting socialization, delinquency prevention and empathy for victims. The one-day workshop on mass media and crime prevention to be held within the framework of the Ninth Congress will provide a suitable forum in which to discuss that issue.

C. Reclaiming delinquents

91. There is wide support in the juvenile justice field, and apparently among the public, for rules 13.1 and 13.2 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) (General Assembly resolution 40/33, annex), which stipulate that detention pending trial should be used only as a measure of last resort and for the shortest possible period of time and that, whenever possible, detention pending trial shall be replaced by alternative measures. According to rule 13.4 of the Beijing Rules, juveniles under detention pending trial should be kept separate form adults. And, according to rule 17 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113, annex), untried juvenile detainees should be separated from convicted juveniles.

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*The Head Start programme in the United States and a school programme sponsored by Scandinavian countries and UNESCO for youngsters from disadvantaged zones at Santiago have yielded positive results, including reduced delinquency. Programmes to reduce truancy (viewed as pre-delinquent behaviour), such as the multi-agency Project Hope in California (involving the school district, the county probation department, the county social service agency and the police department), have succeeded in keeping students in school and reducing daytime crime. Some, such as the Drug Abuse Resistance Education (DARE) in New Zealand, have successfully utilized peer pressure and a variety of techniques.

1. Individual offenders

92. In many countries, the juvenile justice paradigm has seemingly shifted from rehabilitation to accountability and sanctioning, but that need not reduce the use of diversion from institutional measures at various stages of juvenile court processing and the reliance on non-institutional options, such as work-release programmes, probation, community service or other forms of restitution.[43] In order for diversion from institutional measures and alternatives to work properly, programmes should be run without stigmatizing their participants and should be suited to the particular needs of their participants. Evaluations of such measures have been mixed and require further research; however, preliminary findings indicate that the younger the offender, and the more frequent the contact between the young person and the provider of the service, the more likely it is that diversion will have a positive effect.[44]

93. The negative consequences of this approach include its possible "net-widening effect", which may occur when there is an increase in the total number of young people subject to the juvenile court's services or control, as a result of the use of non-custodial alternatives. To overcome those shortcomings, better targeting of youth for diversion programmes has been suggested, with agreement among the various professionals concerned (the police, prosecutors, judges and programme staff) and referrals to appropriate community agencies. Greater attention should be paid to due process and to the human rights of juveniles.

94. Research has found that chronic offenders are responsible for the majority of violent offences.[45] Problem behaviours, such as delinquency and drug abuse, often occur together, and the earlier problem behaviours are manifested, the earlier and more likely the progression is to "careers" in more serious forms of those behaviours.

95. But programmes for the rehabilitation of juvenile offenders recommended in various United Nations instruments, can be effective even for juveniles who are serious offenders. The emphasis in United Nations standards in juvenile justice is on reducing institutionalization to a minimum, avoiding punishment and promoting reintegration into society. A proper classification of juveniles may be required, both in terms of matching the needs with the services to meet them and in terms of assessing risk, in order to decide whether a juvenile should be in a residential or a non-residential programme and whether there is a requirement for custody or for intensive supervision in the community.

96. Special efforts to ensure more effective apprehension, prosecution and treatment of such serious and chronic offenders include "vertical prosecution" (a single prosecutor follows the case), limited charge- and sentence-bargaining, assistance to victims and witnesses, and special correctional services for convicted youth. In the past decade, some jurisdictions have reconsidered the purposes of juvenile courts. Sometimes this has led to placing less emphasis on the role of rehabilitation and the child's "best interest" and more emphasis on public safety, punishment, deterrence and system accountability.[46] Sometimes it has led to a determination to keep as many young people out of custody as possible, together with a growth of non-custodial measures, but where confinement has been inevitable, the trend has been away from large training schools and towards smaller community-based units.

97. There are also intermediate measures, such as half-way houses, day detention and community programmes that can be applied in a combination of residential and non-residential settings. Analyses of their outcomes have concluded that those with increased staff contacts are the most successful and that behavioural approach methods are most likely to reduce recidivism.*

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*In a recent analysis, repeated positive results were evident with intensive community supervision utilizing college volunteers, behavioural/cognitive problem-solving therapies, parent training and life skills (such as outdoor or wilderness programmes). The most successful programmes were multifaceted and had an impact on the offender's thinking; they included one or more effective projects

2. *Youth gangs*

98. The term youth gang refers to a group of youths and young adults (mostly 14-24 years old) that operates primarily in the streets and engages in a sufficient amount of antisocial activity to warrant attention by the criminal justice system.[47] Such gangs* are usually active in lower-class communities of inner cities or other marginalized areas. Often linked by their common ethnic or other background, their age limits seem to be expanding. They have become more violent in recent years, particularly as a result of the illegal use of sophisticated lethal weapons such as firearms and involvement in drug trafficking.[48]

99. It is believed that gang membership has grown because it fulfils a need for belonging and identity. Gangs have set up franchises for the illicit distribution of drugs, especially in smaller cities where law enforcement may be less stringent. Schools, which used to be neutral zones, have in some countries become the scene of gang warfare, and of recruitment by means of coercion and intimidation.

100. It has been suggested that, rather than analysing why young people join gangs, the relevant authorities should focus on what gangs actually do and on their differential impact so that preventive and control measures can be improved. Among the preventive approaches to gangs that should be explored further is their conversion from negative to positive groups, coopted into activities designed to develop positive goals, the resulting social approval serving as added reinforcement.

D. Future action

101. A comprehensive, systemic response to juvenile criminality requires an array of approaches and dispositions that take due account of both community and individual needs, protect basic rights, provide appropriate referrals, collaborate closely with various service providers, rely on informed and committed personnel and try to evaluate the effectiveness of interventions with different target groups. The double role of many young people as both victims and offenders makes their situation particularly poignant. Some hardened young offenders have been subjected to grievous abuse and/or neglect, which has deadened their feelings.

102. How the application of United Nations instruments on juvenile justice can be enhanced is a pivotal question. An expert group meeting on children and juveniles in detention: application of human rights standards was held at Vienna from 30 October to 4 November 1994. The meeting, which was hosted by the Government of Austria and organized by the Centre for Human Rights of the Secretariat, the Crime Prevention and Criminal Justice Branch and UNICEF, discussed pressing questions and produced recommendations (E/CN.4/1995/100) on children and juveniles deprived of their liberty; the instrumental use of children and juveniles by adults in and for criminal activities; the exploitation of children; standard setting and implementation; and coordination and technical cooperation.

103. Among those recommendations, special emphasis was placed on the necessity of exploring and evaluating alternatives to detention, to ensure compliance with the principle that deprivation of liberty should only be used as a measure of last resort (E/CN.4/1995/100, recommendation 28). The Governments were called upon to ensure that all international norms and standards designed to protect children from exploitation

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targeting the offender's behaviour, feelings and vocational or interpersonal skills, together with cognition, self-evaluation, expectations, values, and understanding and appraisal of the world. Most effective were those that fostered the development of thinking and reasoning skills, social perception and problem-solving (George Comstock and Haejung Paik, *The Effects of Television Violence on Aggressive Behaviour: a Meta-analysis*, preliminary report to the National Research Council for the Panel on the Understanding and Control of Violent Behaviour (Syracuse University, 1990)).

*They have been given special names in some countries (for example, *teppisti* in Italy, *chinpira* in Japan, and *motorburen ungdom* or *skinnskallar* in Sweden).

by adults were thorough reflected on regional, national and local legislation and practice (E/CN.4/1995/100, recommendation 43). In addition States were urged to adopt legislation to punish and redress the wrongs caused to exploited children (E/CN.4/1995/100, recommendation 46). The Ninth Congress may wish to provide appropriate follow-up to those recommendations.

IV. VICTIMS OF CRIME

104. Strategies to reduce the level of victimization are a counterpart of strategies to prevent or reduce violence and crime. The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex) outlined the main parameters for efforts in this area. Assessments of the application of the Declaration have revealed progress in the promulgation of relevant legislation, acknowledgement of the victim's role in the criminal justice process, provision of victim services, wider use of compensation and restitution, and recognition of victims' rights. But much remains to be done, especially in the area of prevention. Cognizant of these needs, the International Scientific and Professional Advisory Council, in cooperation with the local authorities, convened a meeting of experts at Onati, Spain, from 13 to 16 June 1993 to consider the prevention of victimization and the protection of and assistance to victims.[49] Relevant issues were also considered by the International Symposium on Victimology held at Adelaide, Australia, from 21 to 26 August 1994 under the theme "Victimization and violence: strategies for survival". Salient questions relative to victims were raised and progress in the treatment of victims was assessed.[50]

A. Reducing victimization

105. Reducing victimization is essentially a three-pronged task, involving the potential victim, the offender and the public at large, including the agents of crime control. In order not to become victims, individuals can take greater safety precautions. For example, they can avoid dangerous situations and areas, although this is not always feasible and such situations are not always recognizable. There are more visible but controversial measures, such as the installation of television cameras to monitor street activity, which might mean invasion of privacy, or the registration of released sex offenders, which is likely to prevent their reintegration into the community. Better means of risk assessment and treatment follow-up might be more effective in preventing recidivism and in reducing the danger to potential victims. The contagious effect of fear on people's lifestyles is reflected in the fortress mentality, which has increased the isolation and alienation of city-dwellers and has resulted in many of them moving to the suburbs. Crime prevention and victim agencies have produced a variety of materials to assist different groups, particularly the elderly,[51] women[52] and children, and have provided special training in avoiding victimization.*

1. Educational measures

106. The United Nations has been called upon to promote education on the prevention of victimization. At the national level, training packages and guidelines could be developed to educate the public, utilizing, for example, information on victimization patterns and trends at the local level and on the avoidance of victimization. Appropriate training packages might also be developed for civil servants inside and outside the criminal justice system and for policy makers, in order to help prevent victimization of different kinds.[53] Like crime trends, victimization trends might be forecast to make counter-strategies more informed and thus more effective. In some communities, police teams include victim specialists, whose help may be enlisted

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*Such education does not, however, always yield promising results (Robert C. Davis and Barbara Smith, *Teaching Victims Crime Prevention Skills: Can Individuals Lower Their Risk of Crime?* (New York, Victim Services Agency, October 1993)).

to reduce trauma. Probation and parole services can also play a pivotal role. Community crime prevention efforts need to incorporate victimization prevention.

107. Cross-cultural victimization studies, such as the international crime (victim) survey carried out by the United Nations Interregional Crime and Justice Research Institute (UNICRI) in cooperation with the Ministry of Justice of the Netherlands, offer not only a common yardstick for assessing crime situations, but also an empirical basis for policy-making.[54] The promising results of national victimization surveys, including those conducted in some developing countries as part of the international crime (victim) survey, suggest a need for their expansion.

108. In addition to situational prevention, measures should be taken to diminish the likelihood of recurrent victimization. Repressive strategies may fuel resentment that can emerge in a more violent form. A confident society that promotes and encourages human contact is the best insurance against crime and victimization. Violent victimization often has its roots in cultural attitudes that promote conflict, including bigotry, racism, religious fanaticism, sexism, homophobia and xenophobia. An effective policy of victimization prevention should have as its principal aim the changing of such attitudes and the promotion of tolerance and social harmony.

2. Conflict management and resolution

109. The Economic and Social Council, in its resolution 1990/22, on victims of crime and abuse of power, requested the Secretary-General, together with the entities of the United Nations system and other appropriate organizations, to undertake and coordinate action to prevent and curtail severe victimization. Lesser disputes can sometimes be resolved without an adversarial procedure. The potential of this approach has been recognized,[55] and it is being widely applied in some countries, through mediation, arbitration or alternative dispute resolution, undertaken as an adjunct or alternative to criminal justice proceedings. In some cases, the parties are required to try mediation before they go to court.

110. Various types of mediation may be utilized, including rights-based, interest-based and therapeutic mediation. Negotiation, neutral fact-finding, investigation of complaints by an ombudsman, private judging (by a judge or neutral arbiter), mini-trials, summary jury trials and moderated settlement conferences can all be employed, tailored to specific situations and needs.[56] In many countries, courts are increasingly being supplemented by a variety of alternative forums for resolving consumer complaints, landlord-tenant problems, domestic conflicts and other matters.

111. In certain countries, mediation has been used primarily with juvenile offenders to encourage recognition of the damage caused by their acts and to facilitate restitution. Programmes have been initiated to develop conflict resolution skills for preventive diplomacy and to train international peacemakers and peace-keepers. It may be useful to use conflict resolution in syllabuses for police training or retraining and where there has been excessive use of force and/or continuing conflict.

B. Victims and the criminal justice system

112. The second injury that the criminal justice process all too often inflicts on the victim - the key player as a witness - has been widely deplored, with some positive results.[57] Appropriate procedures and facilities have been introduced or adapted in various jurisdictions to lessen further trauma. Victim advocates and strengthened victim and witness protection are frequent features. The victim's place is often precarious even in countries that could draw on their rich traditions of victim-centred justice. There also seems to be greater

acceptance of input from victims, who - contrary to expectations - have not sought harsher punishment.* Awareness-raising of these issues, training, and exploration of different approaches can help in identifying promising options linked to indigenous customs rather than transplanting alien models.

113. The African Institute for the Prevention of Crime and the Treatment of Offenders conducted a Seminar on Victims of Crime and the Prevention of Victimization at Kampala from 29 June to 3 July 1992. Emphasis was placed on the need for criminal justice reforms to return to a system that was more responsive to the needs and rights of crime victims who currently tend to suffer from institutional neglect and to seek social harmony rather than relying solely on an adversarial system. It was recommended that prosecutors and other justice officials should be sensitized to those requirements and that victims should be informed about matters that were their legitimate concern, in addition to providing some input in the criminal process. The need for closer links between people and the police was also stressed, as was the danger of viewing victims as if they were guilty, or of ignoring them, as in the case of domestic violence.

114. In sensitive cases, such as those dealing with child abuse, collaborative investigations by multidisciplinary teams hold special promise. Investigations of child abuse are especially delicate and should be conducted so as not to traumatize the child further. Special techniques, including videotaped testimony, can be used for that purpose.

C. Victim services

115. In many countries services for victims have been developed, reflecting greater concern for victims' needs. They range from shelters and hotlines for battered women and children to multi-purpose victim assistance services, including counselling or therapy, as well as material assistance. The police can play a strategic role in referring victims to service providers, as the first line of victim aid.

116. In some countries, victim assistance service providers encourage victims to participate in criminal proceedings, guided by victim advocates.[58] Specialists in the treatment of post-traumatic stress disorder are in increasing demand, including those able to train trainers and adjunct staff, educators, health-care personnel and community workers who deal with traumatized people. The role of non-governmental and professional organizations in this area is also important. For example, the European forum on victim services and other organizations are fostering the exchange of expertise and experiences in this field. Crisis intervention services have also been developed for victims of violence, especially on survivors of attempted homicide and rape.[59] Counselling services for different kinds of victims may be combined with an advocacy role and efforts at re-victimization prevention.

117. Further research is needed, however, to determine what is most helpful to which kinds of victims. Materials relevant for practitioners should be gathered, and training materials should be annotated to facilitate their use in international work. The promotion of professional and ethical standards for trainers might also be necessary, as well as the preparation of a global comparative report on victim assistance and conflict resolution. It has been recommended (E/1993/10, para. 22) that a manual on education for the prevention of victimization should be prepared that would describe the avenues and means of assistance and redress that may be pursued. The preparation of a manual for victims was also recommended by the National Preparatory

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*In the United States, a study of 36 states found virtually no evidence that victims' participation in the criminal justice system was at the defendant's expense. A field test conducted in New York County concluded that impact statements neither increased officials' consideration of harm to victims nor resulted in generally harsher sentencing decisions (R. C. Davis and B. E. Smith, "The effect of victim impact statements on sentencing decisions: a test in an urban setting", *Justice Quarterly*, vol. 11, No. 3 (September 1994), pp. 453-469; and R. C. Davis and B. E. Smith, "Victim impact statements and victim satisfaction: an unfulfilled promise?", *Journal of Criminal Justice*, vol. 22, No. 1 (1994), pp. 1-2).

Meeting for the Ninth United Nations Congresss on the Prevention of Crime and the Treatment of Offenders held at Buenos Aires from 7 to 10 August 1994.

D. Restitution and compensation

118. Long neglected, the concept of restitution has returned to the fore in the past two decades, particularly in the form of creative restitution as a means of restorative justice. Reparation is usually ordered for victims in felony cases but may be ordered for misdemeanours. Restitution, often imposed as a condition of probation, is usually limited to economic or pecuniary losses and may include community restitution. The possibilities of restitution are severely constrained by offenders' lack of means, but the continuation of the restitution obligation on the offenders' part has been urged until it is discharged.[60]

119. In recent years, compensation or the extension of crime compensation provisions and benefits has been introduced in a number of jurisdictions.* Compensation provisions are generally contained in broader victim legislation, though some countries have introduced specific dispositions. Compensation is usually granted to victims of violent crime or special categories of it, such as terrorism. Most States compensate victims for medical expenses, lost wages and mental health counselling or other rehabilitation services. Some programmes consider the victim's financial need. Until recently, domestic violence was not included in most restitution initiatives. The inclusion of domestic violence as a crime for which victims can be compensated is evidence of a change in attitudes as a result of increased sensitization to the problem and advocacy on behalf of its victims.

120. The problem of reparation to victims of massive abuse may be a major one. While some redress for such victims is being obtained, it is still deemed largely insufficient; it should be significantly expanded. All agencies and mechanisms dealing with human rights and humanitarian issues at the national and international levels should be mindful of the perspective of victims, and of the fact that victims often suffer long-term consequences of the wrongs inflicted on them (there may even be an increase in post-traumatic stress over time).

E. Victims' rights

121. The victims' rights movement has recently gained considerable ground. The legitimation of improved status, reflected in victims' rights bills, was felt to be necessary to ensure its observance in practice. A model victims' rights act and a code for victims have also been proposed at the International Symposium on Victimology held at Adelaide, Australia.[61] In some countries, victims have been granted certain rights,[62] but elsewhere, even where extensive assistance is given to them, such official status has not been claimed, largely because of the belief that victims primarily need healing and assistance rather than a stronger voice in criminal proceedings. Reservations have also been expressed that such rights might jeopardize those of offenders. That objection is denied by victim advocates and others, including human rights advocates, who feel that the rights of both offenders and victims should be protected and that there is no inherent conflict.[63]

122. Perhaps the implied controversy between victims' and offenders' rights is a carry-over from the adversarial system. As procedures such as victim-offender reconciliation, restitution and community service are more widely used, the implied confrontation may be assuaged and further means may be developed to advance the cause of justice, appropriate treatment and, ultimately, crime prevention, in the interest of all the parties and society as a whole. The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power incorporates basic principles to be taken into account in prospective legislation and reforms. Its relevance is reflected in the consonance of recent national initiatives.[64] As the general public becomes

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*In the United States, for instance, almost all states now receive victim compensation grants under the victims of crime act.

more aware of the non-traditional forms of victimization described in the Declaration (e.g. communities as victims, victims of collective violence or of environmental and economic offences), imaginative approaches will be necessary.

F. Future action

123. The Economic and Social Council, in its resolution 1990/22, recognized the need for continuing efforts to give effect to the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and to adapt it to meet the full range of needs and circumstances of different countries. Victimization reduction and technical cooperation projects for the establishment of victim services need to be given more priority in many countries. Victim-related initiatives, now dispersed throughout the United Nations system under various rubrics, could be consolidated. For example, recommendations for the treatment of victims that may involve cooperation with the Office of Legal Affairs of the Secretariat were prepared for the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991, to be implemented also by the International Tribunal for Rwanda. Measures against the victimization of immigrants and displaced persons are of common interest with the Office of the United Nations High Commissioner for Refugees. The Ninth Congress may wish to consider recommending, through the Economic and Social Council and the General Assembly, ways and means of preventing victimization, including inter-agency cooperation involving the Crime Prevention and Criminal Justice Branch.

V. PROMOTING INTERNATIONAL COOPERATION IN CRIME PREVENTION

124. Crime and victimization prevention are national and international tasks that are increasingly overlapping. The alarming expansion of organized crime and other transnational forms of criminality have made it clear that no country or community is immune and that without concerted strategies within and among countries there is little prospect of curtailing them. National phenomena, such as urban crime, violent criminality, delinquency and the resulting victimization likewise have wider implications: violence in inner cities is linked to illicit drugs and firearms - staples of illicit international trade and its local outlets, which attract disenchanted youth for their pernicious activities.

125. Even local crime has wider ramifications, since strategies and means of counteraction can profit from shared knowledge and models developed elsewhere. They can also gain from professional exchanges and the close cooperation of criminal justice agencies and crime prevention specialists with their counterparts. The professionalism of personnel needs to be raised and competence should be increased in devising crime prevention programmes tailored to the needs of different countries and communities. Inner-city and inter-agency cooperation needs to be considerably expanded and institutionalized, bilaterally and multilaterally, including horizontal links between the various services. The United Nations can play a facilitating role, and the Ninth Congress may wish to recommend priorities, concrete operational mechanisms and support systems to enhance the results.

A. Criminal justice and other agencies

1. Global initiatives

126. The Crime Prevention and Criminal Justice Branch has been playing a leading role in furthering global action in the field of crime prevention strategies, in cooperation with regional institutes for the prevention of crime and the treatment of offenders, affiliated or associated with the United Nations. The Branch is charged with the implementation of various mandates, as proposed by previous United Nations congresses on the prevention of crime and the treatment of offenders and by the Commission on Crime Prevention and

Criminal Justice. Specific recommendations of the Ninth Congress, for transmission to the Commission, will help in the fulfilment of that task. UNICRI could assist in that work by, for example, sponsoring and coordinating a series of comparative case-studies on crime prevention strategies to curtail urban violence.

127. Collaborative work may also be undertaken with other United Nations entities. For example, the healthy cities programme could be facilitated by cooperating with the World Health Organization. Other examples include a joint programme with UNESCO on violence prevention and the culture of peace or a joint programme with UNICEF on the protection of street children. Collaborative programmes with the United Nations International Drug Control Programme could include joint initiatives on the prevention and treatment of drug-related offences, prevention of the instrumental use of children in drug trafficking, the reduction of drug-related violence, and control of illicit trafficking in firearms and of illicit drug trafficking.

128. In the statement of principles and programme of action of the United Nations crime prevention and criminal justice programme (General Assembly resolution 46/152, annex, para. 8), it is stated that any increases in the capacity and capabilities of perpertrators of crime are matched by similar increases in the capacity and capabilities of law enforcement and criminal justice authorities. With the increased dimension and sophistication of international transportation, all kinds of criminal activities now have an international aspect. Even an effective strategy for crime prevention will not succeed if some members of the international community cannot commit themselves to it. Strengthening of the law enforcement capacities of States needs to be appropriately reflected in bilateral development assistance to developing countries and countries in transition. At the multilateral level, it is necessary to enhance the allocation of resources for technical assistance in this field. The beneficiaries of such assistance are not only the recipient States, but also the world community. Enhancing the capacity of any one State will lead to enhancing its capacity to actively participate in international efforts.

129. Thus, a more active role in this field should be played by funding agencies engaged in development assistance. The establishment of fair and effective crime prevention and criminal justice systems is a prerequisite for sustainable development. The Economic and Social Council, in its resolution 1992/22, section VI, requested the Secretary-General to assist in mobilizing support for the United Nations crime prevention and criminal justice programme and in undertaking vigorous fund-raising activities to strengthen particularly the operational capacity of its technical assistance and advisory services, *inter alia*, by establishing collaborative relationships with UNDP, the World Bank, other United Nations funding agencies and regional development banks and by exploring innovative partnerships to finance joint technical assistance projects. The African Regional Preparatory Meeting for the Ninth Congress (A/CONF.169/RPM.2, resolution, section II) and the Latin American and Caribbean Regional Preparatory Meeting for the Ninth Congress (A/CONF.169/RPM.4, resolution, section II) urged UNDP and the World Bank, as well as international, regional and national funding agencies, to support technical cooperation activities devoted to strengthening the rule of law and to cooperating with the United Nations crime prevention and criminal justice programme, in order to ensure proper coordination.

130. The interregional advisers for crime prevention and criminal justice can ascertain the needs of States in the areas under consideration by the Ninth Congress and can help to formulate appropriate requests for assistance. Viable crime prevention strategies should be linked to broader socio-economic policies in order to improve material conditions, to reduce marginalization and exclusion from the mainstream and to promote social justice.

2. Regional cooperation

131. Strategies to prevent and counteract violence and crime can benefit from shared knowledge and models developed elsewhere. States with similar circumstances and traditions can pool information and know-how in dealing with their urban crime, violence and delinquency problems, as well as in assisting victims. By

harmonizing their policies and legislation, drawing on the relevant United Nations standards, norms and guidelines, they can better coordinate their action.

132. There are a number of institutes that have played a major role in initiating programmes in the field of crime prevention, such as the regional institutes for the prevention of crime and the treatment of offenders affiliated with the United Nations, namely the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, the Latin American Institute for the Prevention of Crime and the Treatment of Offenders, the European Institute for Crime Prevention and Control, affiliated with the United Nations, and the African Institute for the Prevention of Crime and the Treatment of Offenders. The regional institutes have been in the vanguard of the promotion of the regional cooperation and coordination in the field of crime prevention and criminal justice, the furtherance of more coherent policies and guidelines, and the provision of training courses and seminars on planning for crime prevention, particularly in the context of development and urbanization. In addition, the Regional Adviser on Crime Prevention and Criminal Justice for Asia and the Far East* has played a crucial role in this regard, focusing on specific needs and demands in that region.

133. The institutes or centres in the field of crime prevention and criminal justice, associated with the United Nations, such as the Arab Security Studies and Training Centre, the Australian Institute of Criminology, the International Centre for Criminal Law Reform and Criminal Justice Policy and the International Institute of Higher Studies in Criminal Sciences, have also joined in several regional initiatives in crime prevention. The newly joined Constituent Board of the International Center for the Prevention of Crime Montreal (propose Institute), with its envisaged training, research and clearing-house functions, can also play a major role in promoting viable approaches and links in view of its special competence in crime prevention and victim assistance.

134. These activities can be further extended and geared towards the implementation of the priorities to be identified by the Ninth Congress and the Commission on Crime Prevention and Criminal Justice. When finalized, the proposed guidelines for cooperation and technical assistance in the field of urban crime prevention (Economic and Social Council resolution 1994/20, annex), as well as other recommendations in the field of crime prevention, will provide a basis for training, especially if annotated in the light of regional needs. Pilot and demonstration projects could also be undertaken at the regional and subregional levels to show how the proposed approaches could be translated into practice. The institutes that have done extensive work on the issues to be considered by the Ninth Congress could provide regional annotations to appear in publications such as reports or manuals.

135. Special assistance is needed to enable less affluent countries to collect and process the necessary information, including statistical data, and to identify specific needs. The regional institutes for the prevention and the treatment of offenders might collaborate more closely with regional intergovernmental organizations that already have an interest in such matters or that might contemplate related initiatives. Close cooperation with regional non-governmental organizations, such as the Forum on Urban Security in Europe, the Latin American Forum of Mayors for Urban Safety and the Asia Crime Prevention Foundation, is also crucial.

B. Mass media

136. The potential role of the media in preventing violence and crime has been noted before; properly used, the media can be a powerful force for correcting misinformation, opening new vistas and fostering a "culture of peace". By underlining common values, dispelling prejudices and recognizing the essential humanity of

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*The Regional Adviser, who is assigned to the Economic and Social Commission for Asia and the Pacific, occupies a post funded by a contribution from the Government of Japan.

people across cultures, religions and social strata, the media can build bridges and promote tolerance and solidarity. It can foster a civil polity governed by the rule of law and adherence to basic norms of ethical conduct, along with education in civics.

137. The media can also acquaint the public in many countries with the work of the United Nations in the area of crime prevention and criminal justice, which is still insufficiently known. It might also promote more humane and effective policies in this field by highlighting successful programmes in this area. By increasing public understanding of the issues involved, and of the role of the United Nations, a broader basis for international cooperation in this area might be established. Joint initiatives with the media could be undertaken, including the development of special programmes and materials. Certain publications, such as the *Crime Prevention and Criminal Justice Newsletter* and the *International Review of Criminal Policy*, would be of great help in this process. The workshop on mass media and crime prevention to be held within the framework of the Ninth Congress can also help significantly in this regard.

C. Non-governmental organizations and academic institutions

138. The need for the active participation of non-governmental organizations and professional organizations in the United Nations crime prevention and criminal justice programme was repeatedly stressed over the years, resulting in the establishment, in 1991, of the International Scientific and Professional Advisory Council. The resource committees of the Council (e.g. on juvenile justice and rights, victims and crime prevention, and human rights in the administration of justice) have made important contributions to the United Nations crime prevention and criminal justice programme. Clearing-house facilities are also to be established in conjunction with the United Nations Crime and Justice Information Network, if resources permit, to help share and exchange information on innovative projects.

VI. CONCLUSIONS

139. The present document contains a review of recent scientific policies related to urban crime prevention, violent crime, juvenile crime and victim protection. Based on this scientific review, the document suggests that any approach to prevent such crime and victimization associated with it has to be integrated in overall social planning strategies; thus, crime prevention strategies have to be comprehensive, taking into consideration the fact that crime is a multifaceted problem.

140. Planning for sustainable urban and human development in a wider perspective, including an attempt to anticipate and forestall prospective crime and violence problems, is important. Also essential is instituting multipronged and multilevel strategies to prevent and mitigate crime, violence and victimization, including immediate, medium-term and long-term measures. For these purposes, policies for crime prevention and control, both intersectorally and sectorally within the criminal justice system, should be put into force, using an effective approach that entails the least human and material costs.

141. The mechanisms and procedures to be established at the country and local levels will play a lead role in providing support and coordinating action to reduce criminogenic imbalances and foster harmonious urban and national development. In this process, the promotion of equity and social justice, with remedial measures to reduce exclusion, marginalization, disadvantage and vulnerability, should be given due attention. The participation of the public in the political process and in urban development and renewal, as well as the increase of legitimate economic and social opportunities that provide hope for a better future, is important.

142. The strengthening of democratic governance and official accountability, and the creation of channels for the communication and redress of grievances, as well as for conflict resolution, is also relevant to effective crime prevention strategies. By combining effective technical solutions with the inculcation of prosocial

values, and by drawing on indigenous traditions, the importance of community and social solidarity could be stressed.

143. The curtailment of opportunities for community crime, as well as other factors conducive to it, could be possible by breaking vicious circles (e.g. those of violence perpetuation, urban decline and crime) and by minimizing risk factors and increasing protective factors. For that purpose, the identification of key elements of successes ("best practices") and failures, in varying contexts, for reference in future initiatives, is of vital importance.

144. The conduct of joint problem-oriented training of personnel from different disciplines and sectors bearing on urban crime prevention, including urban planners and criminal justice practitioners, should be facilitated. The mobilization of public opinion and support for crime prevention efforts via the media and other means needs to be encouraged.

145. The importance of sharing information and exchanging expertise and experiences at the international, national and local levels has been repeatedly stressed. By strengthening assistance to requesting States, cities and groups, comprehensive subregional, regional and international action plans for urban crime and violence prevention and victim assistance could be established. Such assistance might include rosters of available advisory services, training opportunities and funding possibilities, as well as guidelines for self-help and project formulation.

Notes

[1]United Nations Development Programme, *Human Development Report 1994* (New York, Oxford University Press, 1994), pp. 185-186.

[2]"Urban security and sustainable development in the 21st century", report of the Expert Group Meeting on Urban Security, Vancouver, Canada, 11-15 July 1994, pp. 17-23.

[3]See Catherine Vourc'h and Michel Marcus, Sécurité et Démocratie (Saint-Armand-Montrond (Cher), France, Forum Européen pour la sécurité urbaine, and Collège analytique de la sécurité urbaine, 1993).

[4]See Pedro David, "Comunicad y prevención del delito: perspectivas comparadas", D. P. Carrera, ed., *Criminalidad y Prevención del Delito*, Cuadernos de Prevención, No. 1 (Córdoba, Argentina, Instituto de Estudios para la Prevención del Delito, 1991).

[5]See P. J. Brantingham and P. L. Brantingham, *Environmental Criminology* (Beverly Hills, California, Sage, 1981); J. Baldwin, *The Urban Criminal* (London, 1976); P.O.H. Wikstrom, *Urban Crime* (New York, 1990), chap. 8; P.O.H. Wikstrom, *Crime and Measures against Crime in the City* (Stockholm, 1990); and D. J. Evans and others, eds., *Crime, Policing and Place: Essays in Environmental Criminology* (New York, Rutledge, 1992).

[6]See P. J. Brantingham and P. L. Brantingham, *Environmental Criminology* (Beverley Hills, California, Sage, 1981).

[7]Anna Kossowska, "Srodowiskowo-Przestrzenne Uwarunkowanie Przestepczosci (Wybrane Zagadnienia Współczesnej Ekologii Przestepczosci)", *Archiwum Kriminologii* (Warsaw), vol. XIX, 1993, pp. 7-16.

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INTERNATIONAL COOPERATION AND PRACTICAL TECHNICAL ASSISTANCE FOR STRENGTHENING THE RULE OF LAW: PROMOTING THE UNITED NATIONS CRIME PREVENTION AND CRIMINAL JUSTICE PROGRAMME

Background paper for the workshop on extradition and international cooperation: exchange of national experiences and implementation of extradition principles in national legislation

Summary

The Economic and Social Council, in its resolution 1993/32, endorsed the programme of work for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders proposed by the Commission on Crime Prevention and Criminal Justice at its second session, which included the holding of a one-day workshop on "Extradition and international cooperation: exchange of national experiences and implementation of extradition principles in national legislation". It was recommended that the workshop cover specific problems in the implementation of extradition treaties and related forms of international cooperation, and methods of overcoming those problems, with due regard for democratic structures and that it should also consider how, in practical terms, extradition and other international cooperation mechanisms should function, general impediments to extradition, and how to balance extradition obligations against reasonable grounds for denial. The present report provides background information for discussion at the workshop, including an outline of the legislative and substantive background, various mechanisms for extradition, including bilateral and multilateral agreements, impediments to extradition, and relevant policy issues. To carry forward the momentum towards improving extradition relations developed in the workshop, particular training needs will be considered, together with existing training methods and resources. As a result, it is hoped that further exchanges will be generated and specific training programmes developed, as well as other proposals and contributions concerning technical cooperation.

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INTRODUCTION

A. Legislative background

1. A workshop entitled "Extradition and international cooperation: exchange of national experiences and implementation of relevant principles in national legislation" was envisaged at the first session of the Commission on Crime Prevention and Criminal Justice. Subsequently the Economic and Social Council, in its resolution 1992/24, decided that research and demonstration workshops should be held as part of the programme for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. The following year, the Council, in its resolution 1993/32, endorsed the proposal by the Commission at its second session to hold six workshops for the Ninth Congress, including a one-day workshop on extradition and international cooperation.

2. At its third session, the Commission further considered preparations for the Ninth Congress, and made a number of recommendations, which were adopted by the Council in its resolution 1994/19. In particular, in section II of that resolution, the Council recommended that the workshop consider specific problems in the implementation of extradition treaties and related forms of international cooperation, and methods of overcoming those problems, with due regard to the necessity of observing democratic structures. It also recommended that the workshop should consider how, in practical terms, extradition and other international cooperation mechanisms should function; it should also consider general impediments to extradition and how to balance extradition obligations against reasonable grounds for denial. The Government of the United States of America and the International Association of Penal Law have generously contributed to the organization of the workshop, including its substantive preparations, for which particular acknowledgement is due.

B. Substantive background

3. Recent events that have contributed to the development of the workshop include the convening of the Ad Hoc Expert Group Meeting on Strategies to Deal with Transnational Crime at Smolenice, from 27 to 31 May 1991, where it was recommended, *inter alia*, that national and international efforts to deal with transnational crime should focus on cooperation through extradition and mutual assistance, and designation of appropriate national coordinating authorities to expedite treaty implementation (Economic and Social Council resolution 1992/23, annex I, subpara. 7 (c)). The Ad Hoc Expert Group on Implementing Legislation to Foster Reliance on Model Treaties, meeting at Vienna from 18 to 21 October 1993, recommended that Member States should consider clarifying the roles of various government departments and their foreign ministries and designating a central authority for international cooperation matters, periodically reviewing treaty relations and implementing legislation, and enacting streamlined national legislation to give effect to international treaties (see E/CN.15/1994/4/Add.1, annex).

4. A number of recommendations have also been made on the subject of extradition in the course of the regional preparatory meetings for the Ninth Congress. The recommendations of the Asia and Pacific Regional Preparatory Meeting and the Western Asia Regional Preparatory Meeting stressed the importance of bilateral and multilateral cooperation arrangements and the need for periodic dissemination of information on national legislation concerning international cooperation (A/CONF.169/RPM.1 and Rev.1 and Rev.1/Corr.1, para. 41, and A/CONF.169/RPM.5, para. 21). The African Regional Preparatory Meeting mentioned the assistance provided by the Crime Prevention and Criminal Justice Branch of the United Nations Secretariat to the Economic Community of West African States (ECOWAS) in connection with elaboration of a convention on extradition and other matters (A/CONF.169/RPM.2, para. 23), and stressed that the effectiveness of the United Nations model treaties should be reviewed and obstacles in their application analysed (ibid., para. 24).

The European Regional Meeting proposed that the workshop consider the practical implementation of extradition procedures, impediments to extradition, and how to achieve a balance between extradition regimes and the need for reasonable grounds for denial of extradition. It also suggested that consideration be given to various forms of technical assistance, such as internships, and the need to reexamine existing arrangements, including the United Nations model treaties, in the light of recent developments, including new types of crime (A/CONF.169/RPM.3 and Corr.1, paras. 23-25 and 77).

5. The World Ministerial Conference on Organized Transnational Crime, held at Naples from 21 to 23 November 1994, considered the most effective forms of international cooperation against organized transnational crime. As may be seen from the report of the Conference (A/49/748, annex), many participants were of the view that extradition and other cooperative measures to prevent and control the proceeds of crime provided effective modalities for success in that area and the role of the United Nations model treaties in that context. It was also noted (ibid., para. 47) that impediments to extradition, such as non-extradition of nationals, needed to be resolved (ibid., para. 48). In the Global Action Plan Against Organized Transnational Crime (see A/49/748, annex, section I), subsequently approved by the General Assembly in its resolution 49/159, it was stated in paragraph 25 that States "should endeavour to implement fully existing bilateral and multilateral conventions and agreements concerning extradition, to ensure that all provisions [concerning political asylum] are respected and to ensure effective implementation of requests for mutual legal assistance". In paragraph 24, it was recommended that reliance on, and more widespread promotion of, the model treaties should be pursued. In its resolution 49/159, the General Assembly requested the Commission on Crime Prevention and Criminal Justice to keep the implementation of the Global Action Plan under regular review.

6. In order to assist with preparations for the workshop, the Secretariat circulated a questionnaire to all Member States. A total of 53 countries replied, 48 of them indicating that they would be interested in participating in the workshop. With respect to general themes, 41 States said they would be interested in discussing impediments to extradition, 39 mentioned training, and 35 policy development. With respect to specific issues, 42 States cited dual criminality, 36 mentioned burden-of-proof requirements, and political offences and humanitarian safeguards were both cited by 29 States; 27 States mentioned the specialty rule.

7. Thus, impediments to extradition were identified as being the item of greatest interest to extradition practitioners. This proved fortunate when it came to organizing the workshop, because nearly all of the other themes and issues that had been thought to merit discussion could be rephrased in terms of problems that impeded international cooperation, for example the lack of training in dealing with unfamiliar legal systems. Difficulties in negotiating bilateral and multilateral instruments, and the development of policies on such issues as the political offence exception and application of the principle of *ne bis in idem*, could all be treated within the framework of resolving extradition problems.

8. To be considered successful, the workshop should contribute to improved extradition relations and practice among Member States and to increased availability of training and technical assistance in the future. It is hoped that this paper, which is in the nature of a discussion guide, the workshop itself and any resulting activities, including the follow-up seminar to organize training resources and programmes, which may be hosted by the International Association of Penal Law at the International Institute of Higher Studies in Criminal Sciences, at Siracusa, will all contribute significantly to meeting the training goals.*

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*The format of this report is intended to parallel the format of the workshop itself, which will be divided into four sessions of no more than 90 minutes' duration, each session focusing on one of the topics set out herein. Within a particular session, the format of discussion is chosen by the Member State or States assuming responsibility for that topic; it may consist of a brief

C. The purpose and evolution of extradition

9. Extradition may be designated as the official surrender of a fugitive from justice, regardless of his consent, by the authorities of the State of residence to the authorities of another State for the purpose of criminal prosecution, or the execution of a sentence.[1] It is an important aspect of the range of measures for cooperation in criminal matters under international law.

10. Every extradition case may be regarded as an individual agreement under international law, notwithstanding the fact that the parties may also have established general extradition relations by concluding a bilateral or acceding to a multilateral extradition treaty. Under such an agreement, the State of residence (or requested State) exercising jurisdiction over the offender renounces its jurisdiction for the benefit of the other State (or requesting State). The motive for the return of the fugitive is the furtherance of foreign criminal proceedings. In some cases, however, expulsion and deportation have been used as alternatives to extradition, sometimes to accelerate the transfer of the fugitive, or to avoid any legal impediments to extradition.

11. The origins of international cooperation in the suppression of crime date back to the beginnings of formal diplomacy. In ancient times, rendition was considered a highly political act left to the unfettered discretion of the sovereign. Until the middle of the eighteenth century, extradition primarily involved political refugees rather than those accused of crimes. By the latter half of the eighteenth century, however, the movement of people between States had increased, and special problems began to arise with highway robbers, vagabonds and deserting troops. Over the following years, the principles of extradition were refined and developed to apply to the general problem of fugitives, until, by the end of the nineteenth century, a coherent body of legal rules governing extradition had developed, whose major principles still apply to contemporary extradition law.

12. General international law does not impose a duty on States to extradite, or to prosecute or punish fugitive offenders when extradition fails[2] (although the opposite view has been held by others and set forth as the axiom *dedere aut judicare* - extradite or prosecute). The duty to extradite or prosecute depends on a treaty fixing the prerequisites for, and exceptions to, such an obligation.

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introductory exposition followed by open discussion, of distribution of a written problem for discussion by participants, of a panel discussion, or simply of a general group discussion guided by a moderator. The Member States responsible for leading the discussion on a particular topic are requested to emphasize interactive discussion of the general issues being examined, rather than focusing on conditions or practices in a particular country. This is not intended to preclude a country that is serving as a discussion leader from citing novel or instructive problems it has encountered or from providing examples of solutions but simply to emphasize the fact that the focus should at all times be on communicating themes, approaches and solutions of general utility that are of interest beyond the borders of a single society.

References are made throughout to the United Nations Model Treaty on Extradition (General Assembly resolution 45/116, annex). A manual on the Model Treaty, entitled *A Guide for Implementation*, has been prepared by the Secretariat with the assistance of the Government of Australia and a number of national experts (forthcoming). The manual provides commentaries on each of the articles of the Model Treaty, explaining the purpose, application and implementation measures for the relevant article. A similar manual has been prepared on the implementation of the Model Treaty on Mutual Assistance in Criminal Matters (General Assembly resolution 45/117, annex).

13. Likewise, general international law contains no limitations on a State's freedom to extradite, except for fundamental human rights, which can be considered as part of *jus cogens*.* Whether, beyond that restriction, extradition is admissible in the absence of a treaty is decided solely under domestic law.

14. Every extradition case is subject to the rules of the applicable treaty or statute or to the exercise of sovereign power by the parties. In the absence of a universal convention or customary international law in this field, there can be as many "extradition laws" as there are treaties, national statutes, laws and practices. While international extradition law lacks a comprehensive and globally recognized set of precepts, a number of rules tend to recur in most treaties, statutes and practices. These include the means by which extraditable offences may be identified, the dual criminality rule, evidence of guilt, reciprocity[3] and the specialty rule,** as well as circumstances precluding extradition. The importance and implications of many of these rules and impediments to extradition are discussed below.

I. THE AVAILABILITY OF EXTRADITION MECHANISMS

A. Alternatives to international extradition agreements

15. The most obvious and basic impediment to successful international cooperation in the field of extradition is the lack of domestic legislation or of applicable international instruments furnishing a legal basis for non-consensual delivery of a fugitive to a requesting country. It can be argued that, historically, extradition, or its practical equivalent of expulsion to the requesting country, is essentially an exercise of sovereign discretion which is not inherently dependent upon the existence of an international agreement. Other alternatives to formal extradition procedures are often unilateral exercises of national discretion, such as deportation, expulsion, case-specific ad hoc arrangements, and voluntary departure or waiver of extradition. The increased recognition of the importance of the rule of law has, however, contributed to the belief that compulsory extradition should be founded upon regularly enacted domestic legislation of general applicability.

16. Such legislation can provide a legal basis for extradition, conditioned upon a commitment by the requesting country to grant extradition reciprocally, or it may function independently of such conditions. In the absence of any formal international agreement with the requesting country, it seems at first sight to be a very efficient way to avoid the expenditure of resources in extensive negotiation of international instruments and permit maximum protection of national sovereignty, as the extradition procedure is essentially within the discretion of the requested Government, which is not bound by any international extradition commitments. This approach, however, has an intrinsic limit in implementation because it depends exclusively upon the good will of the requested country.

17. Some countries have domestic law provisions that prohibit extradition in the absence of a treaty or other formal international agreement. This factor, the desire of many countries to establish predictability in extradition relationships and growing concern for the interests of the person who is the object of extradition all combine to make extradition increasingly a creature of international instruments.

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*See section IV, subsection C, below.

**The specialty rule is central to protecting the requested State from abuse of its extradition process. Some experts believe it should also protect the fugitive from unexpected criminal charges following extradition, although frequently used treaties permit the contracting States to waive specialty. (See the Extradition Treaty between the Government of the United States of America and the Government of the Republic of Italy, executed at Rome, 13 October 1993.)

B. Negotiation of multilateral and bilateral instruments

18. Even considering the great number of treaties and conventions in force, the coverage of those international instruments is far from complete, particularly given the existence of new States and the changes in global travel and immigration patterns, which create a need for new extradition relationships. At its third session, the Commission on Crime Prevention and Criminal Justice adopted resolution 3/4 on the succession of States in respect of international treaties on combating various manifestations of crime[4] in which it urged successor States to confirm that they continued to be bound by obligations under relevant treaties to which their predecessor States were parties and encouraged them to become parties to international treaties to which their predecessor States were not parties. (See also section I, subsection C, below.)

19. Recently, immigration has increasingly come to be seen as a security and law enforcement problem and not merely a political, economic and social issue. In European countries, with closer economic and social integration under the European Union, the abolition of internal migration controls and increased cross-border movement have greatly increased the mobility of people, including offenders. Other countries have also been affected, and the suppression of illegal immigration has become prominent both in official pronouncements and in the conduct of law enforcement agencies. It should be noted that both the requesting and the requested States have an interest in bringing fugitives to justice and preventing reoffending.

20. To cure the problem by negotiating comprehensive modern instruments is desirable, but the realities of treaty negotiation are complex. Even bilateral treaties between States with comparable legal systems and cultures often take years to come to fruition because of the sensitivity of sovereignty interests, the necessity to reconcile the often differing interests of foreign ministries and ministries representing the criminal justice system, and the domestic political considerations that may weigh upon a Government's ability to secure legislative approval or implementation after the negotiation and signature process.

1. United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988

21. The inescapable diversity, complexity and occasional *lacunae* that arise when each country maintains its own web of bilateral treaties have encouraged consideration of multilateral conventions. The most recent and perhaps most successful example of the utilization of the multilateral convention approach in the field of extradition is represented by article 6, paragraph 2, of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,[5] which provides that "Each of the offences to which this article applies [drug and drug money laundering offences] shall be deemed to be included as an extraditable offence in any extradition treaty existing between Parties. The Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them". Moreover, article 6, paragraph 4, of that Convention provides that "The Parties which do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves".

22. One hundred and five Member States have now become parties to the 1988 Convention, which unquestionably represents one of the greatest single advances in international criminal justice cooperation in recent decades, although, of course, it applies only to drug-related criminality, and future developments will probably encompass other facets of international concern.

23. A global convention holds out the promise of a single instrument embracing many States and thereby reducing the need for numerous specific instruments with single treaty partners. The negotiation process for the 1988 Convention extended over many years, however, and represented a very resource-intensive commitment for those involved. Universal conventions, by their very nature, must also accommodate more widely differing interests than bilateral treaties and therefore tend to become more generic and less stringent

in their application. Accordingly, they may be most appropriate when there is already a broad consensus on rather specific practical steps that need to be taken, so that the overall thrust and the practical consequences of these desired improvements can survive the dilution that inevitably tends to occur during the multilateral negotiation process.

24. Additional examples of a broad consensus leading to multilateral conventions with extradition provisions similar to those in the 1988 Convention are the Convention for the Suppression of Unlawful Seizure of Aircraft;[6] the Convention for the Suppression of Unlawful Acts against the Safety of the Civil Aviation;[7] the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (General Assembly resolution 3166 (XXVIII, annex)); the International Convention against the Taking of Hostages (General Assembly resolution 34/146, annex), the International Maritime Organization (IMO) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation[8] and the Single Convention on Narcotic Drugs, 1961[9] as amended by the 1972 Protocol.[10] Experience in the negotiation of these conventions would seem to suggest that the consensus necessary for their adoption includes agreement both on defining the contours or definition of the specific threat or problem to be confronted and the remedies that need to be adopted to prevent or counteract the menace.

2. Regional extradition schemes

25. Less ambitious and, at least theoretically, easier to negotiate are regional agreements, such as the European Convention on Extradition[11] and its additional protocols,[12] and the European Convention on the Suppression of Terrorism.[13] Such regional pacts* (broadly understood to include groupings based on a political as well as a geographical commonality), may enjoy the tremendous advantages of an institutional structure, of compatible legal and political cultures and reciprocal knowledge of and confidence in the other parties' legal systems, which can greatly simplify negotiation of the underlying instrument and the resulting extradition practice. The workshop may be a forum for exchanging the experiences with such regional agreements.

26. The International Association of Penal Law recently held its XVth International Congress at Rio de Janeiro from 4 to 10 September 1994, on the regionalization of international criminal law and the protection of human rights in international cooperation in criminal proceedings, at which a number of recommendations were made. In its report to the preparatory colloquium for that Congress, held at Helsinki from 2 to 6 September 1992, the Association summarized national reports from 21 countries, replies to a questionnaire circulated by the Association, as well as describing recent developments in these areas. Its general report[14] included a survey of the major multilateral extradition arrangements. The material that follows is based on that report.

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*Other regional conventions on extradition include: the Convention concerning Extradition and Mutual Assistance in Criminal Matters (United Nations, *Treaty Series*, vol. 616, No. 8893, p. 80); the Extradition Agreement adopted by the Council of the League of Arab States on 14 September 1952 (League of Arab States, *Collection of Treaties and Agreements*, No. 95 (1978); the General Convention on the Cooperation in Judicial Matters of the Organisation Commune Africaine et Malgache (OCAM) (text in L. B. Sohn, ed., *Basic Documents of African Regional Organizations*, vol. 2 (1972), p. 616); the Treaty for the Extradition of Criminals and for Protection against Anarchism, adopted by certain American States on 28 January 1902 (*Consolidated Treaty Series*, vol. 190, p. 411); the Agreement on Extradition, adopted by certain American States anad signed at Caracas on 19 July 1911 (*Consolidated Treaty Series*, vol. 214, p. 129); the Convention on Extradition, signed by five republics of Central America and adopted on 7 February 1923 (M. O. Huston, *International Legislation*, vol. 2, *1922-1924* (1931), p. 954), with its follow-up Convention of 12 April 1934; the Convention on Private International Law of 20 February 1928, ratified by 15 Latin American States on 20 February 1928 (Bustamante Code), articles 344-381 (League of Nations, *Treaty Series*, vol. LXXXVI, No. 1950, p. 246); the Convention on Extradition of 26 December 1933, ratified by 12 American States (League of Nations, *Treaty Series*, vol. 162, p. 45), with further revisions added in 1940 and 1957 (Organization of American States, *Treaty Series* No. 36); and the Inter-American Convention on Extradition, signed by 12 Latin American States at Caracas, on 25 February 1981 (Organization of American States, *Treaty Series* No. 60).

27. One of the organizations that has been most active in developing European cooperation in criminal matters is the Council of Europe. This institution has enacted some 20 multilateral conventions on criminal law issues, including the European Convention on Extradition,[11] the Convention on Mutual Assistance in Criminal Matters,[15] and the Convention on the Transfer of Sentenced Persons (1983),[16] as well as the Convention on the Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime.[17]

28. The League of Arab States is an international intergovernmental organization that promotes cooperation, in various matters, including criminal law. The member States of the League have a Convention on Extradition (1953), and a general Convention on Judicial Assistance (1985), which covers matters such as legal assistance, including letters rogatory, the exchange of excerpts from criminal records, extradition, the recognition of foreign criminal judgements and the transfer of sentenced persons. Some members have indicated a preference for concluding treaties among a more limited number of Parties, either bilaterally or in the framework of the Arab Cooperation Council.

29. The Organization of African Unity (OAU) held a Pan-African Conference of Ministers of Justice in 1989 at Abuja, Nigeria. The plan of action adopted there called for a council of ministers of justice to be established as part of the OAU organization, which would be responsible for the development of African regional instruments for cooperation in legal matters, including extradition, and against the illicit traffic in narcotic drugs and psychotropic substances. ECOWAS has also concluded conventions on extradition and mutual assistance in criminal matters.

30. The Organization of American States (OAS) has taken steps to enact regional conventions on such matters as extradition and mutual legal assistance. Other organizations that may hold possibilities for promoting regional cooperation in criminal matters include the Mercado Común del Sur ("Mercosur") comprising Argentina, Brazil, Paraguay and Uruguay, which is to become operative by 1995.

31. The law ministers of Commonwealth countries have worked together over the years to devise schemes of cooperation which rely on the enactment of enabling legislation rather than on the conclusion of bilateral or multilateral treaties. The content of the national laws is largely determined by the content of the schemes approved and amended, as necessary, by ministers at regular meetings. The London Scheme Relating to the Rendition of Fugitive Offenders, 1966, was the first of the cooperative schemes and forms the basis of much of the extradition legislation in Commonwealth countries. In recent years, however, the law ministers have amended the Scheme to remove the traditional list of extraditable offences, to update provisions dealing with political offences and to permit a modification of the evidentiary requirements for extradition requests. Member countries of the Commonwealth are gradually amending their extradition laws to reflect these modernizing provisions and, in many cases to consolidate their laws relating to extradition to Commonwealth and non-commonwealth countries. As they do so, an increasing number of Commonwealth countries are in a position to use the Model Treaty on Extradition as a basis for the conclusion of bilateral extradition arrangements.

32. In the South-East Asian and South Pacific regions, in both the South Pacific Forum and the Pacific Islands Law Officers Meeting (PILOM), discussions take place on various forms of cooperation in criminal matters, including the drafting of legislation.

33. The Convention of Berlin of 19 May 1978 on the Transfer of Persons Who Have Been Sentenced to Loss of Freedom to the State of Which They Are Citizens is the only convention on criminal law matters that has been produced among the Central and Eastern European States. Through their accession to the Council of Europe, however, Central European States like Bulgaria, the Czech Republic, Hungary, Poland and Slovakia are now in a position to become parties to the relevant conventions of the Council of Europe.

34. Some countries become parties to multilateral conventions on criminal law matters elaborated in other regions. For example, Israel is a party to the European Convention on Extradition[11] and the European Convention on Mutual Assistance in Criminal Matters.[15]

35. The European Convention on Extradition and the European Convention on Mutual Assistance in Criminal Matters have been ratified by many States but have been subject to quite a large number of reservations and declarations. This could be explained by the fact that, while the Conventions create binding obligations under international law, they are at the same time couched in relatively general terms and were among the earlier products of modern thinking in the area, and therefore there were few precedents as to interpretation. Member States may therefore have considered it prudent to make their position quite clear in respect of certain aspects of the Conventions. Some such reservations provided the basis of later protocols. Others preserve some subregional cooperation (the Nordic and Benelux schemes). Others have been withdrawn following amendments to domestic legislation or policies.

36. In order to avoid large numbers of reservations, which are considered by some to detract from the effectiveness of a treaty, two techniques were suggested. Firstly, the elaboration of more detailed conventions, taking into account the variety of legal systems and building into the instruments matters that would otherwise be expressed as reservations. Alternatively, conventions may be drafted with less binding obligations, providing mainly an instrument of voluntary cooperation. While more countries may join the treaty, however, it may not be effective in practice. The likelihood is that, the larger the scheme, the more reservations to it there will be. The suggestion has been made that reservations could be made for a fixed period, and would then lapse automatically.[18]

3. Bilateral Negotiations

37. Bilateral treaties will be the most prevalent form of international cooperation for the foreseeable future, permitting a basic level of cooperation in criminal matters despite dissimilar approaches to national crime control legislation. To assist in those tasks, a manual on the Model Treaty on Extradition, entitled *A Guide for Implementation*, has been prepared by the Crime Prevention and Criminal Justice Branch of the United Nations Secretariat with the assistance of the Government of Australia and a number of other national experts, for distribution at the workshop. The manual's explanation of the Model Treaty provisions can be of assistance to countries planning to enter into extradition negotiations, permitting the adaptation of the Model Treaty provisions to the needs of individual countries and offering useful information on what type of domestic legislation will be required to implement the various provisions.

38. Once negotiations on either a bilateral or multilateral basis have been concluded by the executive authorities of a State, the instrument must be brought into effect, a process often requiring domestic approval by the legislative branch of government and enactment of domestic implementing legislation. Depending upon a country's constitutional and parliamentary systems, this procedure may be a simple process or a risky endeavour, which may be delayed for years. For example, the refusal of the United States Congress to approve the Covenant of the League of Nations after the First World War, despite the efforts of President Wilson, illustrates the principle that an international instrument must always conform to domestic political realities.[19] Since such political realities change, and often are frequently difficult to calculate with precision during the process of negotiating the treaty, there can often be no assurance that the desired instrument or the necessary implementing legislation will be approved.

39. The degree of uncertainty will usually be proportional to political sensitivities concerning the other parties to the instrument or to its potentially controversial provisions. This may dictate prompt action when the political constellations are in the right configuration. A practical consequence of these political realities is that lengthy preliminary negotiations to prepare a mutually agreeable treaty may be worthwhile even when

immediate domestic acceptance is not politically feasible, so that the instrument will be ready and waiting for legislative consideration when a window of opportunity presents itself.

C. Succession to existing instruments*

40. The third issue to be examined under the topic of the existence of formal extradition mechanisms concerns the applicability of treaties or conventions to successor States having varying degrees of identity and continuity with the States which originally entered into those international relationships. This is a problem of great current concern and legal complexity and will be discussed at the workshop; reference will be made to the United Nations Convention on Succession of States in Respect of Treaties[20] and the Vienna Convention on the Law of Treaties (A/CONF.39/27 and Corr.1).

II. PROBLEMS IN THE PREPARATION OF EXTRADITION REQUESTS

A. Dual criminality and the "list" approach

41. The existence of legislation authorizing extradition and even an international instrument (treaty or convention) are only threshold steps towards the establishment of successful extradition practice. Many existing treaties contain provisions that can create difficulties in application, such as the so-called "list" of extraditable offences.

42. The requirement for criminality of the offence for which extradition is to be granted under the laws of both the requesting and requested sovereigns, that is, dual criminality, is a deeply ingrained principle of extradition law. It has been traditionally applied by listing named offences in the instrument, for example, murder and theft. The approach has certain deficiencies, which include a rigidity that excludes from coverage even offences that may subsequently have been penalized in both contracting States. That rigidity of structure also encourages a similar rigidity in juridical analysis, emphasizing the terminology or the label given to an offence, which obviously will differ depending on the legal systems and languages concerned, rather than on the underlying factual conduct.

43. The list concept is now generally considered to be obsolete and more modern treaties tend to use a so-called "general clause", with language similar to that used in the Model Treaty on Extradition: "For the purposes of the present Treaty, extraditable offences are offences that are punishable under the laws of both Parties by imprisonment ... for a maximum period of at least [one/two] year(s), or by a more severe penalty ...". (General Assembly resolution 45/116, annex, article 2, para. 1.)

44. To militate against the possibility of excessively formalistic application of the treaty based upon the semantic description of an offence rather than its practical nature, the Model Treaty also provides that:

> "In determining whether an offence is an offence punishable under the laws of both Parties, it shall not matter whether:
>
> "(a) The laws of the Parties place the acts or omissions constituting the offence within the same category of offence or denominate the offence by the same terminology;

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*See paragraph 18 above.

"(b) Under the laws of the Parties the constituent elements of the offence differ, it being understood that the totality of the acts or omissions as presented by the requesting State shall be taken into account." (General Assembly resolution 45/116, annex, article 2, para. 2.)

45. The introduction of such explanatory clauses to reinforce a generic dual criminality standard explicitly minimizes the significance of the particular legislative language used to penalize certain conduct and encourages a less pedantic, more pragmatic focus on whether the underlying factual conduct is punishable by both contracting States, even if under differently named statutory categories. Many difficulties arise because of the need to make highly technical distinctions between different crimes, for example theft, fraud, embezzlement: malversation and breach of trust; degrees of homicide; financial misconduct by public officials; or various forms of participation in organized crime types of activities are thereby avoided.*

46. In order for the requested State to verify that the acts referred to in the extradition request are punishable under its own legislation, most treaties require that the text of the laws describing the essential elements of the offence be furnished. Thus, the Model Treaty on Extradition provides that:

"2. A request for extradition shall be accompanied by the following:

"(a) In all cases,

"...

"(ii) The text of the relevant provision of the law creating the offence or, where necessary, a statement of the law relevant to the offence and a statement of the penalty that can be imposed for the offense". (See General Assembly resolution 45/116, annex, article 5.)

47. A standard treaty clause also requires a statement of the facts constituting the offence, for example in the Model Treaty, for a person accused of an offence, "a description of the acts or omissions constituting the alleged offence" (see article 5, subpara. 2 (b)) or, for a person convicted of an offence, "a description of the acts or omissions constituting the offence" (see article 5, subpara. 2 (c)). While provision of the text of the relevant law is a straightforward requirement, which is readily understood and usually complied with in extradition requests, the required factual description is often reduced to a brief reference in conclusory terms, for example that the accused, acting in concert with named persons, at a certain time and place, distributed drugs, or fraudulently secured the property of named victims.

48. Such minimalist descriptions can create difficulties in deciding whether the crime for which a person has been charged corresponds to a criminal offence in the requested State. To reach that decision, the requested country's authorities may wish to know not simply whether the abstract legal elements of the offence correspond to an offence under domestic law, but whether the particular factual conduct that the person is alleged to have committed personally, the knowledge or intent alleged, and the acts of others for which the person to be extradited is claimed to be criminally responsible, would in their totality constitute a domestic offence. This problem is most evident in countries with a common-law tradition, which review the sufficiency of the evidence in support of a charge against an accused but unconvicted person. It can, however, arise whenever the applicability of a criminal law provision is not immediately apparent and the interpreting court or extradition authority wishes to resort to the factual allegations of the charging document

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*Further shortcomings and advantages of the "list approach" (also called the "enumeration method") and of the "general clause approach" (also called the "elimination method") are analysed in *Extradition for Drug-Related Offences, a Study of Existing Extradition Practices and Suggested Guidelines for Use in concluding Extradition Treaties* (United Nations publication, Sales No. E.85.XI.6), paras. 47-54.

or sentence of conviction to ascertain whether that conduct would be punishable under domestic law. This essential verification of double incrimination sometimes makes it necessary for the requested State to seek further information and clarification from the requesting State, which delays processing of the extradition request, particularly if the response requires additional translation of lengthy documents. Since many extradition treaties and domestic laws impose time limits for the period of detention allowed in connection with arrests for the purpose of extradition, such delays can potentially facilitate the escape of a fugitive.

49. A more ample and precise narrative description of the overall criminal conduct may thus be needed to permit the authorities of the requested State to determine whether dual criminality applies, particularly in requests for extradition of accused persons who have not yet been convicted, as to whom there will be no copy of the judgement or sentence usually required to be attached when a convicted fugitive is sought for service of a sentence.

50. Difficulties involving dual criminality can also be minimized by farsighted drafting of the treaty instrument. For example, the Extradition Treaty between the Government of the United States of America and the Government of the Republic of Italy, executed at Rome on 13 October 1983, contains a clause providing a limited exception to the requirement for dual criminality, which might be useful for other States with federal structures and limited penal competence of the central Government. Article II, paragraph 4 of the Treaty, provides that:

> "The provisions of this Article apply whether or not the offense is one for which United States federal law requires proof of an element, such as interstate transportation, the use of the facilities of interstate commerce, or the effects upon such commerce, since such an element is required for the sole purpose of establishing the jurisdiction of United States federal courts."

51. Another clause in the same Treaty preempts what could otherwise be very difficult problems regarding technical common-law offences such as attempt and conspiracy and their relationship to the Italian civil law concepts of *associazione per delinquere* or *concorso in reato*. Article II, paragraph 2, concisely provides that:

> "An offense shall also be an extraditable offense if it consists of an attempt to commit, or participation in the commission of, an offense described in paragraph 1 of this article. Any type of association to commit offenses described in paragraph 1 of this article, as provided by the laws of Italy, and conspiracy to commit an offense described in paragraph 1 of this Article, as provided by the laws of the United States, shall also be extraditable offenses."

B. Political, tax and fiscal offences

52. In order to achieve as analytical a discussion of the exception of political, tax and fiscal offences as possible, it has to be borne in mind that problems relating to other grounds for refusal of extradition will be discussed in section III below, including the topic dealing with refusals based on improperly motivated requests.[21] Given the existence of this safeguard against abuse, the political offence objection can be viewed more narrowly and perhaps more successfully. It must also be admitted that political offences could have been discussed under the topic dealing with problems in the execution of requests, where the examination of improperly motivated requests logically belongs. The treatment of political offences was intentionally placed here, however, to emphasize that, if problems in connection with political offences are properly foreseen and provided for by international instruments, then their treatment becomes simply a matter of furnishing the necessary information in a treaty request to demonstrate that the extraditable offence was a common crime rather than a political offence.

53. Extradition for a nonviolent, purely "political" offence, such as prohibited criminal slander of the head of State by a political opponent or banned political activity, might embroil the requested State in the domestic

politics of the State requesting extradition, where today's dissidents may be tomorrow's governing class. Values of political tolerance and free speech may make a Government reluctant to grant extradition for such offences. The community of nations generally accepts without undue complaint or friction refusals to extradite based on the nature of non-violent offences as purely military or purely political, implemented either by treaty clauses or domestic legislation.

54. The same degree of international acceptance cannot be found with respect to refusals to extradite based upon the political offence exception when the conduct in question is violence committed for asserted political goals, and which therefore contains all of the elements of common crimes such as bombing and murder. The history of the political offence exception is an interesting study in the progression of civilized efforts to accommodate legitimate political change, while increasingly denying sanctuary to perpetrators of violence.

55. Past efforts to fix the limits of a political offence exception have never been fully satisfactory. Such efforts have experimented with criteria like the identity of the victim, for example granting the exception for crimes of violence directed at combatants as opposed to non-combatants in revolutionary conflicts or, conversely, denying the exception for assassination of heads of State and their families; with tests of whether the alleged criminal acts were proportional to the asserted political goal, or, phrased differently under the so-called predominance test, whether the political motive and effect were predominant or whether the criminal effect on by-passers and innocent persons, for example from the placement of a bomb, overwhelmed any alleged political purpose. Finally, the common-law incidence test established certain factual criteria to exclude violence not committed during and incident to an actual popular uprising against the Government of the territory where the crime was committed, and then applied a balancing test like the proportionality and predominance criteria.

56. These tests and the degree of tolerance towards violence that they reflect were in part historical reactions to anti-democratic, authoritarian regimes, in which armed resistance was considered perhaps the only means of securing a change of government. With the increasing global trend towards the democratic succession of Governments by electoral means, international law and civilized public opinion are becoming progressively more intolerant of political violence. Accordingly, treaty provisions to an increasing extent exclude bombings, assassinations and other forms of violence from the benefit of the exception, in recognition of the fact that justifications that may once have excused political violence no longer exist between treaty partners with democratic societies in which political change can be achieved by peaceful means.

57. The historic exclusion of tax and fiscal offences from the coverage of some extradition treaties may reflect the fact that such offences are an expression of the sovereignty of the State which imposes fiscal obligations on its citizens, and were therefore seen in the same light as political offences and subjected to the same limitations. Just as terrorist violence has led to a more restrictive definition of what constitutes a political offence, however, so have the phenomenon of money laundering and the infiltration of criminal proceeds into national economies led to a trend in modern treaties to treat fiscal offences in a similar manner to crimes under ordinary law.

58. It is also pertinent to consider whether the scope of continued generic exclusion of fiscal offences is now consistent with the penalization of drug-related money laundering under the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.*[5] The worldwide recognition of the need to remove the economic incentives for crime and safe havens for criminal proceeds, and the 40 recommendations made by the Financial Action Task Force on Money Laundering,[22] established by the Organization for Economic Cooperation and Development, which represent a major effort to protect legitimate

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*In article 3, paragraph 10, of the Convention, it is stated that drug-related offences and drug-related money laundering offences "shall not be considered fiscal offences" for the purpose of cooperation among the Parties to the Convention.

economies and financial systems against the investment and corrupting influence of criminal capital, would suggest a recognition that fiscal offenders no longer enjoy immunity from extradition.

59. The results of The World Ministerial Conference on Organized Transnational Crime, held at Naples from 21 to 23 November 1994, are worth mentioning here. The Conference recommended for adoption by the General Assembly the Naples Political Declaration and Global Action Plan against Organized Transnational Crime (A/49/748, annex, sect. I, subsect. A), in which the importance of preventing and controlling money laundering and the proceeds of crime was stressed. The Declaration and Global Action Plan were subsequently approved by the General Assembly in its resolution 49/159.

60. Similarly, the greater harmonization of laws penalizing "business" offences, such as monopolies, securities manipulations and banking abuses,* would not only protect the citizens of the countries enacting such laws but would facilitate the extradition of international fugitives sought for such crimes and would abolish the sanctuaries where they now can hide from justice.

61. It is hoped that, during the discussion of this subtopic, the experience and policies of countries that maintain clauses excluding tax and fiscal offences from the coverage of their extradition treaties can be compared with those of countries that have no such clauses. Issues relating to the proper definition of tax and fiscal offences, which may actually result in a rather restricted application of this exception, may also be discussed.

III. PROBLEMS IN THE EXECUTION OF REQUESTS

A. Refusals based on nationality and alternatives

62. Persuasive appeals based on different concepts of sovereignty can be made in favour of and against refusals to extradite, based upon the fact that the person whose requested surrender is a national of the requested State.** Exchanges of such views during this workshop might generate great heat but little light on the issue. It is therefore intended to encourage a more factually oriented discussion that will attempt to analyse the effectiveness of mechanisms designed to smooth the frictions resulting from constitutional or legislative prohibitions against the extradition of a country's own nationals, such as:

(a) The principle of *aut dedere aut punire*;

(b) Transfer of proceedings and of sentenced persons and deferred and temporary surrender;

(c) Execution of foreign sentences and other means of reconciling sovereign interests, for example by making non-extradition of nationals an optional grounds for refusal under a treaty, when it is not constitutionally mandated.

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*Such as those committed by the Bank of Commerce and Credit International.

**The four traditional arguments for nonextradition of nationals are: first, the fugitive ought not to be withdrawn from his natural judges; secondly, the State owes to its subjects the protection of its laws; thirdly, it is impossible to have complete confidence in the justice meted out by a foreign State, especially with regard to a foreigner; and fourthly, it is disadvantageous to be tried in a foreign language, separated from friends, resources and character witnesses (Royal Commission on Extradition, *Report of the Commissioners, 1878* (C.2039), p. 908. The non-extradition of nationals has been criticized by a number of writers, for example Jean-Claude Lambois, *Droit pénal international* No. 458 (1971); and Hans Schultz, "The principles of the traditional law of extradition", in *Legal Aspects of Extradition among European States*, No. 9, pp. 19-20 (Council of Europe, 1970).

63. The focus of this subtopic will be to elicit the experience of those with practical experience in this area, both within the refusing country and in the country seeking extradition and prosecution of the fugitive. Anticipated areas of discussion would include problems of conflicts of substantive and procedural law, representation of the interests of the requesting State, practical problems of submission of evidence, allocation of expenses, and the historical record of the effectiveness of such proceedings.

B. Refusals based on the principle of *ne bis in idem*

64. While the principle of *ne bis in idem* is generally recognized in the domestic law of most countries, its international application is much more a matter of negotiated agreements.* Accordingly, while two countries may agree not to extradite between themselves when there has been a final determination of guilt or innocence by either, they may yet extradite when the person sought has been convicted or absolved by a third State. One issue worthy of exploration is whether this principle for denial of extradition should be expanded from a final judgment to a decision either not to institute or to terminate proceedings, as is proposed as an optional grounds for refusal in article 4, subparagraph (b), of the Model Treaty on Extradition, and whether different considerations govern mandatory and discretionary prosecution systems in this regard. Another relates to what criteria and evidentiary information are appropriate and necessary to measure whether a second prosecution is for the same offence, particularly in complex and continuing group crimes. This second issue involves many of the same factual and procedural issues as arise in connection with establishing dual criminality.

C. *In absentia* convictions and other humanitarian concerns

65. Discussion will be directed first towards identifying the concepts recognized in various legal systems that permit trial in the physical absence of the accused, for example failure to appear after lawful notice, or voluntary departure after commencement of the proceedings waiving further presence, representation by legal counsel, and the significance of whether this is a privately selected and employed defence counsel or a court-appointed legal defender. Avenues for subsequent presentation of a defence or reconsideration of an *in absentia* conviction that may overcome objections to extradition will be examined.**

66. The Model Treaty establishes three conditions, all of which must be met to constitute mandatory grounds for refusal of extradition: an *in absentia* judgment, lack of opportunity to present or arrange for a defence, and absence of a procedure to have the case retried in the accused persons's presence. If the first condition is understood simply as the physical absence of the accused from the court proceeding, then it will only rarely be an issue of dispute, as when an accused person who is physically disruptive is detained in a separate room with an audio or audio-visual connection to the courtroom. The lack of opportunity to be present and defend can present much more complex issues, particularly when a legal system imposes a comprehensive residential registration system and imputes knowledge to a person from certain legally prescribed procedures for giving notice, and provides for appointed counsel to represent a non-appearing accused. The third condition, the opportunity for retrial, is an obvious means of overcoming any prior difficulties, and may be relatively simple and cost-effective in systems which permit the taking or testing of evidence at an appellate level or in a review procedure.

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*Nevertheless, as it prohibits the courts from trying a person twice for the same offence, the principle of double jeopardy is partially recognized as a general human right. In this regard see Protocol No. 7 (European Treaty Series No. 117) to the Convention for the Protection of Human Rights and Fundamental Freedoms.

**The protection of human rights in international cooperation in criminal proceedings were discussed by the International Association of Penal Law at its XVth Congress, held at Rio de Janeiro from 4 to 10 September 1994. This topic was also considered at length at the Preparatory Colloquium Section IV, held at Helsinki from 2 to 6 September 1992, the proceedings of which were published in the *International Review of Penal Law*, vol. 65, Nos. 1 and 2, 1994.

67. Comments by the participants on other issues of humanitarian interest will be invited.* For example, a general "humanitarian concerns" clause, such as article 4, subparagraph (h), of the Model Treaty on Extradition, could create uncontrolled discretion and non-enforceability. Accordingly, in the light of the Model Treaty's goals, it may be appropriate to discuss whether article 4, subparagraph (h), of the Model Treaty, which permits a treaty partner to reject extradition for any reason that it considers incompatible with humanitarian considerations, in view of the "personal circumstances" of the person, may invite arbitrary refusals in its actual implementation so long as they are phrased only in terms of general humanitarian considerations. In a treaty that contains mandatory and optional grounds for refusal, covering political offences, improperly motivated requests, *ne bis in idem*, special tribunals, imposition of the death penalty, imposition of cruel or unusual punishment, *in absentia* convictions, the accused being a national of the requested State etc., most humanitarian considerations would seem to have been foreseen explicitly or implicitly. In order to preserve predictability and reciprocal trust in treaty relationships, it may be preferable to negotiate specific grounds for refusal, for example when the fugitive exceeds a certain age, rather than creating an arbitrary discretion in one treaty partner to refuse extradition whenever a sympathetic argument can be made based upon the personal circumstances of the fugitive.

68. Human rights questions can be particularly difficult in cases where the requested State has an obligation to provide international assistance, which would, in turn, jeopardize fundamental individual rights which that State is also obliged to respect under a binding international instrument on human rights.** The State would then have conflicting obligations under international law. Relevant examples include a question on how to combine the obligation to extradite a person pursuant to an extradition treaty with the obligation under article 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 39/46, annex), which prohibits the expulsion, return or extradition of a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture, if the State requesting extradition is not a party to that Convention; or how to combine the obligation to extradite with obligations under the Protocol No. 6[23] to the European Convention on Human Rights and Fundamental Freedoms, providing for the abolition of capital punishment.

69. Such situations could be resolved by applying the rule that the most recent law takes precedence over the later law (*lex posterior derogat legi priori*), assuming that both treaties are of the same legal order, that the obligations relate to the same subject matter and that the parties are both bound by the same conflicting treaty obligations.[24] According to another argument, specific domestic law can result in human rights treaties having the same rank as constitutional law and therefore taking precedence, whereas other treaties have the rank of ordinary law in that country. According to a similar reasoning, article 103 of the Charter of the United Nations provides that, in the event of a conflict between the obligations of Member States under the Charter (with its human rights provisions), and their obligations under any other international agreement, their obligations under the Charter shall prevail.***

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*The International Law Association, at its 66th Conference, held at Buenos Aires from 14 to 20 August 1994, also also considered the question of extradition and human rights and made a number of recommendations.

**For a further discussion of issues surrounding human rights and extradition see Sharon A. Williams, "Human rights safeguards and international cooperation in extradition: striking the balance", *Criminal Law Forum*, vol. 3, No. 2, p. 191; and Donald K. Piragoff and Marcia V. J. Kran, "The impact of human rights principles on extradition from Canada and the United States: the role of national courts", ibid., p. 225.

***A different approach was followed in the Soering case by the European Court of Human Rights (*Decisions of the European Court of Human Rights*, Series A, vol. 161), where the Court ordered a State to comply with its obligations under the Convention for the Protection of Human Rights and Fundamental Freedoms (European Treaty Series No. 5) by refusing to extradite Soering to a country where he would be under the threat of capital punishment whilst being subjected to protracted legal proceedings in solitary confinement.

70. Another approach could be the application of the doctrine of *jus cogens* to norms such as the prohibition of torture, discrimination as to race, religion, nationality and political opinion, slavery and arbitrary executions.

71. In connection with claims that a request for extradition may result in prosecution or punishment for religious, racial or other improper motivations, the questions to be explored in this discussion will concern ways in which the issue may be dealt with procedurally by the person being extradited, the requested State and the requesting State. For example:

(a) How a person whose extradition is requested can secure consideration of such a claim, and what means of proof can be advanced to support the claim;

(b) How a requesting State can and should respond to such allegations;

(c) How the requested State or its judicial authorities can obtain information themselves, what evidence should be considered by the authority who will decide the issue, and whether responsibility for deciding the issue should reside with the Government or with the judiciary;

(d) Whether there should be a presumption of regularity in connection with any regularly presented request unless contested by the person to be extradited, and what criteria should be followed in determining when that presumption should be considered to have been overcome.

D. Representation of the requesting State

72. In situations requiring legal representation or appearance by the requesting Government before a court or other appropriate body of the requested State, the following questions arise:

(a) Does the requested State undertake to represent vigorously the interests of the requesting State?

(b) What alternatives are available when there is a conflict of views or interests between the two States?

(c) If private counsel are employed, how can the requesting State most effectively monitor and control the positions and arguments advanced on its behalf that have potential policy implications beyond the single case?

73. The Model Treaty on Extradition does not touch on this issue, but many modern treaties do, providing that the ministry of justice or other authority of the requested State shall advise, assist and render all possible representation for the requesting State in extradition proceedings. This provision should always be written in terms that would recognize the fact that in some situations the interests of the requesting and requested States may differ, which may dictate the advisability of allowing the requesting State to appear as an interested party in the extradition proceedings, always in conformity with procedural rules of the requested State. This possibility of conflict, however, may well be a statistically improbable occurrence, which is better left to be worked out on an ad hoc basis, rather than trying to write an exception to a treaty provision providing a general duty to render all possible representation.

E. Provisional arrest and sufficiency of documentation

74. Unquestionably one of the most common public conceptions is that there is a procedure for an "international arrest warrant", usually associated in the popular imagination with the International Criminal Police Organization (ICPO/Interpol). The proper nature of the ICPO/Interpol notice system and other systems

for alerting police authorities to attempt to locate fugitives will be distinguished from requests for provisional arrest.

75. The practical difference between a notice to locate a fugitive and the degree of documentation and evidence required for a request for provisional arrest or a formal extradition request becomes immediately clear in those countries, often with a common-law legal tradition, which require a judicial review of the underlying evidence of the offence in order to permit arrest or extradition. Verbal formulas expressing this concept are found in footnotes to article 3 and article 5, subparagraph 2 (b), of the Model Treaty on Extradition (General Assembly resolution 45/116, annex, footnotes 98 and 101).

76. The typical ICPO/Interpol diffusion notice simply does not contain that degree of evidentiary detail, and certainly cannot be expected to contain it in a form procedurally acceptable to every country to which such a notice may be distributed. Accordingly, in many situations an ICPO/Interpol notice can only serve to locate a fugitive, and a separate request for provisional arrest must follow in order to permit an arrest and to initiate the process towards extradition. As contemplated in article 9 of the Model Treaty, such a request can also be communicated through ICPO/Interpol channels. So it is necessary to realize that in addition to ICPO/Interpol diffusion notices, other, more formal, communications, often using prosecutorial and diplomatic channels, may be necessary to achieve effective extradition practice. This will obviously require prompt communication procedures among the national authorities involved in progress.

77. It may, however, be a wise bureaucratic precaution for the requested State to require that a provisional request for arrest reflect or be accompanied by an assurance from the governmental entity with authority formally to request extradition that it concurs in the provisional arrest request and will provide the formal extradition documents within the time permitted. Such a request is useful to ensure that communication has taken place between the entity charged with fugitive apprehension, that is the country's national central bureau of ICPO/Interpol, representing its police authority, and the entity charged with requesting extradition, often a justice or foreign ministry, and that they are in agreement, as the desire to extradite may change during the months or years while a fugitive is being sought and ICPO/Interpol is not always notified of changed circumstances.

78. With further regard to countries that require an evidentiary demonstration, the ICPO/Interpol channel of communication may by itself be inadequate. The police authorities who make up ICPO/Interpol cannot be expected to have the legal expertise to be able in every case to identify, analyse and present the proof necessary to satisfy the evidentiary standards of another State in a form acceptable to that State, as some States accept statements only from witnesses with personal knowledge, some do not accept the results of a police interrogation of the subject of an investigation except when given in the presence of a judicial officer etc.

79. Indeed, an ICPO/Interpol national central bureau has many difficulties in obtaining ready access to such evidence, and may have to contact a local police agency to contact the prosecutor or judge, who must supply the evidentiary information. Judicial or prosecutorial participation is also often necessary to identify the proof that is needed to satisfy the standards of the requested State, particularly with regard to States of the common-law legal tradition, which require sufficient proof to demonstrate probable cause that the accused committed the offence.

80. In such cases, the usually short period of custody imposed pursuant to a request for provisional arrest (40 days, as proposed in article 9, paragraph 4, of the Model Treaty on Extradition) may dictate the need for direct contacts at least between the ministries of justice or even between prosecutorial and judicial offices after initial contact has been made through the relevant ministries. Information or documents initially transmitted between the criminal justice authorities concerned can, if necessary, be followed by transmission of the formal copies through diplomatic or other channels, as the relaying of the information through foreign

ministries or even through ICPO/Interpol may simply be incompatible with the realities of time limits established by law or judicial schedules.

81. Of course, any suggestion of direct contacts assumes the presence of the common language capability otherwise supplied by ICPO/Interpol. It is unrealistic on a global basis to expect individual prosecutorial or judicial offices to possess such a capability, but central authorities are increasingly becoming bilingual and multilingual, which will do much to permit the delay factors described below to be overcome.

IV. POLICY ISSUES CONCERNING IMPEDIMENTS TO EXTRADITION

A. Policy development and bridging the gaps between legal systems

82. On the merits of policy developments, a common issue requiring attention is the necessity to bridge the cultural gap between various legal systems, for example those with a common-law legal tradition contrasted with those tracing their origins to Roman law through the Napoleonic codes, and those of either of the previous origins contrasted with those based on Islamic law, or on customary law etc. Among the practical problems that often obstruct efforts to find solutions and to construct treaty provisions that will be mutually acceptable to two different legal cultures are the absence of common vocabularies and the existence of wholly different institutions, and even of unique functions.

83. Resolving these differences requires a profound familiarity with, and respect for, the foreign system concerned and careful consultation with practitioners within each system to know whether a proposed bridging mechanism or phrase will achieve the intended result. Treaty phrases that clearly express a domestic legal concept and have translated well into one set of foreign treaty negotiations may provoke misunderstanding and be wholly inapplicable in another.

84. The practical result of this is that even the most harmonious and productive set of treaty negotiations producing a mutually agreeable draft must await an extensive vetting by all concerned ministries and possible users of the treaties. This vetting should be designed to ensure that the agreed extradition language expresses precisely what was intended, and does so intelligibly, not only to treaty experts of foreign and justice ministries, but to the police and prison authorities who must execute the actual transfers of persons. Moreover, it may be advisable to seek the opinion of representatives of the judiciary and the prosecutors or government attorneys, and the defence attorneys, who will be contesting the treaty language in legal proceedings, in order to anticipate every construction, or misconstruction, that can be placed upon a word or phrase.

85. Several Member States have generously undertaken to prepare a supplemental paper on the theme of bridging the gap between civil and common law systems, which they will present at the workshop and which will be distributed with the present report.

B. Causes of delay and misunderstanding

86. Causes of delay and misunderstanding in implementing extradition relations and requests can be both structural and cultural. Contributions from participants in the workshop will be sought on solutions to the common problems of mechanical delay in the use of formal communication channels, in translation and in certification of documents. Reference will be made to the Model Treaty on Extradition, which in article 5, paragraph 1, provides a range of optional channels, which could be the diplomatic channel, between the ministries of justice, or through other authorities designated by the parties (such as police or judicial channels).

87. When developing policy to guide treaty negotiations and the resolution of problems in extradition practice, it is worth discussing the respective roles of foreign ministries in relation to the justice or interior ministries, including the factors that dictate whether justice and interior ministries need specialized international offices and representatives in order to protect their policy and operational interests in matters such as extradition and mutual assistance (evidence gathering). When such offices do exist, the question arises what factors should be considered in determining how to allocate tasks and responsibilities between the ministries concerned. Owing to their long history, extradition treaties as a rule rely much more heavily on the diplomatic channel than do mutual assistance treaties, which are a more recent development. This distinction may present a convenient example when examining the particular contributions to international cooperation that can best be made by the various ministries.

88. Since provisions concerning provisional arrest, such as those contained in article 9 of the Model Treaty, generally specified a fixed period of time in which delivery of the formal request for extradition must be effected, discussion will be encouraged on whether or not provisional arrests are frequently rejected or delayed because of expected difficulties in meeting the deadline for receipt of the formal documents. Explanations will be sought for why problems and delays in communication persist despite significant recent advances in document facsimile transmission technology. Factors leading to delay may include the need for several different authorities to participate in the process of providing documents (police or prosecution authority), authenticating them (judicial authority), and transmitting them (diplomatic authority). In this regard, it may be instructive to compare modern mutual legal assistance treaties, which often eliminate the requirement that documents be handled by diplomatic authorities as a means of expediting and enhancing cooperation.

89. An informal poll of participants may be used to introduce issues related to the adequacy and intelligibility of extradition documentation, to how often translated documents leave factual or procedural issues unclear, to how frequently elements that are lacking must be supplemented and how that can be accomplished given the time constraints of extradition proceedings. An inquiry will be made into how frequently extradition practitioners achieve expertise in the legal procedures and terminology of particular treaty partners and how that level of expertise can be improved.

90. The jargon and technical terminology of a legal culture is frequently almost unintelligible to the average citizen within that same society. Special efforts are therefore essential to render legal documents from one system understandable to the authorities of another system. Idiomatic expressions must be avoided because they may have no meaning when translated. Institutions and assumptions may need to be explained and terms defined. Suggestions for quality control mechanisms will also be solicited. For example, it would be well to investigate whether there is ever any follow-up by ministries to determine whether the translations being provided are sufficiently intelligible or whether any record is kept of requests for clarification.

91. Member States will be asked to share their experience with regard to the most cost-effective means of training extradition practitioners and improving extradition practice, for example by a combination of formalized training manuals and an instruction programme, by a period of apprenticeship, by visiting the counterpart State, by receiving visiting experts, or by frequent and in-depth treaty consultation at both the working and policy levels.

C. Technical cooperation activities and follow-up

92. To carry forward the momentum developed in the workshop towards improving extradition relations, participants will be asked to propose particular training needs and to describe the training methods and resources that are available. As a result of such statements, it is hoped that bilateral exchanges will be generated, and that a multilateral exchange will result within the context of a follow-up meeting on developing specific training programmes, for which the International Association on Penal Law has graciously

offered to consider acting as host. Other specific proposals and contributions at the conclusion of the workshop concerning training would, of course, be most welcome.

Notes

[1]See Torsten Stein, "Extradition", in R. Bernhardt, ed., *Encyclopaedia of Public International Law*, part 8, *Human Rights and the Individual in International Law - International Economic Relations*, published under the auspices of the Max Planck Institute for Comparative Public Law and International Law (Amsterdam, Elsevier Science Publishers B.V., 1985), p. 222.

[2]Stein, loc. cit., p. 223.

[3]M. Cherif Bassiouni, *International Extradition: United States Law and Practice*, 2nd ed. (1987), p. 325; M. Cherif Bassiouni, *International Extradition and World Public Order* (1974), p. 314.

[4]*Official Records of the Economic and Social Council, 1994, Supplement No. 11* (E/1994/31), chap. I, sect. C.

[5]*United Nations Conference for the Adoption of a Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 25 November-20 December 1988*, vol. I (United Nations publication, Sales No. E.94.XI.5), document E/CONF.82/15.

[6]United Nations, *Treaty Series*, vol. 859/60, No. 12325.

[7]United Nations, *Treaty Series*, vol. 974, No. 14118.

[8]International Maritime Organization publication, Sales No. 462 88.12.E.

[9]United Nations, *Treaty Series*, vol. 520, No. 7515.

[10]United Nations, *Treaty Series*, vol. 976, No. 4512.

[11]European Treaty Series No. 24.

[12]European Treaty Series Nos. 86 and 98 respectively.

[13]European Treaty Series No. 90.

[14]Julian J. E. Schutte, "The regionalization of international criminal law and the protection of human rights in international cooperation in criminal proceedings: general report [to the preparatory colloquium, section IV, Helsinki (Finland), 2-6 September 1992]" in *International Review of Penal Law*, vol. 65 (1994), 1st and 2nd quarters, chap. II.

[15]European Treaty Series No. 30.

[16]European Treaty Series No. 112.

[17]European Treaty Series No. 141.

[18]M. Bonn, R.C.P. Hoontjens,A.M.M. Orie and A.M.G. Smit, "The regionalization of international criminal law: Netherlands national report" in *International Review of Penal Law*, vol. 65 (1994), 1st and 2nd quarters, chap. III, p. 367.

[19]*The New Encyclopaedia Britannica*, vol. 29, Macropædia (Chicago, Encyclopaedia Britannica Inc.), p. 253.

[20]United Nations publication, Sales No. F. 79.V.10.

[21]Article 3, paragraph 2, of the European Convention on Extradition of 1957 and its additional protocols (European Treaty Series No. 24).

[22]Report of the Financial Action Task Force on Money Laundering, dated 7 February 1990.

[23]European Treaty Series No. 114.

[24]Julian J. E. Schutte, *loc. cit.*, p. 108.